

Kentucky Criminal Justice Council:

An Interim Report

**Activities,
Findings and
Recommendations**

KENTUCKY CRIMINAL JUSTICE COUNCIL

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**In Memory of
Robert F. Stephens
1927 - 2002**



“Efforts to integrate all aspects of the criminal justice system throughout the commonwealth and to share information across all organizational and jurisdictional boundaries represent critical functions of the Criminal Justice Council. The council works closely with many individuals and entities to coordinate interagency activities. As chair of the Council, I am committed to statewide planning and coordination to insure that resources are used efficiently and effectively.”

**Robert F. Stephens, Secretary, Justice
Cabinet and former Chief Justice of the
Kentucky Supreme Court**

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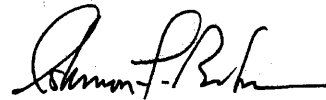
FOREWORD

The 2002 Interim Report of the Kentucky Criminal Justice Council represents the third in a series of reports designed to provide an overview of the Council's activities during the past year and to formally submit its recommendations to the Office of the Governor and the Interim Joint Committee on Judiciary in accordance with KRS 15A.040. Although it is anticipated that additional recommendations will be forthcoming as the Council's committees continue their deliberations, recommendations included in this report focus on a broad array of criminal justice policy issues ranging from parole decision making and computer crime to early intervention models designed to divert status offenders from progressing further into the juvenile justice system.

This report highlights the accomplishments of the Council over the past year and documents progress attained in the implementation of major criminal justice reform projects such as the Unified Criminal Justice Information System (UCJIS) and comprehensive revision of the Kentucky Penal Code. The report also provides detailed information on the activities and findings of the eight standing Council Committees as well as emerging research initiatives of the Statistical Analysis Center (SAC) and the Public University Research Consortium (PURC).

In the coming months, the Council plans to renew its focus on issues related to drug control policy by reconvening its Drug Strategy Committee and working to implement solutions and recommendations identified in the Statewide methamphetamine and Oxycontin Summit in June 2002. It is anticipated that the Drug Strategy Committee will coordinate its efforts with the work of the Governor's Oxycontin/Prescription Drug Abuse Task Force and create a neutral forum for discussion and collaboration of drug enforcement initiatives at the state, local, federal and regional levels.

As Chair of the Kentucky Criminal Justice Council, I look forward to the challenges that lie ahead and to moving the Council forward on the path established by Judge Robert F. Stephens. The accomplishments of the Council are a testament to his leadership. The 2002 edition of the Council's Interim Report is dedicated in memory of Judge Stephens and in honor of his legacy of public service to the Commonwealth of Kentucky.



Justice Secretary
Ishmon F. Burks
Chair
July 1, 2002



SUMMARY OF ACCOMPLISHMENTS

2001-2002

Statewide Criminal Justice Planning/Coordination Activities:

- The full Council met on a total of six occasions over the past year and retained an excellent record of member attendance and participation.
- In January 2002, the Council updated its Standing Rules and Operating Procedures and combined both documents into one comprehensive format.
- In March 2002, the Council adopted a policy statement on the Rights of Crime Victims and Related Implications for Council Action.
- Over recent months, the Council updated its website (www.kcjc.state.ky.us) to provide information on its overall operation and committee activities. New sections are currently being incorporated on the Statistical Analysis Center (SAC) and the Public University Research Consortium (PURC).
- In April 2002, the Council's Corrections/Community-Based Sanctions Committee applied for and received technical assistance from the National Institute of Corrections (NIC). As an outcome, Paul Herman, Senior Manager, Center for Effective Public Policy and NIC Consultant, presented national perspectives on parole board structure to the committee.
- In May 2002, the Council approved a Summary of Council Priorities for Grant Funding. The summary, which will be updated on an annual basis, outlines general and specific policy priorities to be incorporated by the Grants Management Branch into the process of allocating federal funds.
- In November 2001, the Capital Litigation Committee received a presentation from Professor Samuel Gross, University of Michigan Law School, on possible options and anticipated costs for conducting a comprehensive study of capital cases in Kentucky. Professor Gross is nationally recognized for his expertise in capital litigation research and consulted on national research conducted by the Constitution Project, a bipartisan and multidisciplinary policy organization located in Washington, D.C.
- In September 2001, the Council, along with the Kentucky Commonwealth's Attorneys Association, co-hosted statewide training for law enforcement officers and prosecutors on "Computer-Aided Crimes Against Children." The training was presented by the National Center for Missing and Exploited Children as part of technical assistance received by the Council.
- Through its participation on the Embedding Prevention Project Core Team, the Council was involved in the planning of a statewide drug summit on methamphetamine and Oxycontin. The summit was held in Lexington in June 2002 and co-sponsored by the Drug Enforcement Administration, the National Crime Prevention Council, and the Kentucky Crime Prevention Coalition. Nearly 350 participants attended the statewide planning conference to identify barriers as well as solutions in responding to critical challenges facing the Commonwealth.
- Between July 2001 and June 2002, Council staff attended national meetings and conferences hosted by the Bureau of Justice Assistance; the National Criminal Justice Association; the Bureau of Justice Statistics and the Justice Research and Statistics Association; the National Crime Prevention Council; and the federal Corrections Program Office.

Criminal Justice Data Collection and Research Capacity:

- The Kentucky Statistical Analysis Center (SAC), operating within the Office of the Criminal Justice Council, hired a Research Coordinator in July 2001 and received funding through the State Justice Statistics Program to operate a criminal justice clearinghouse; initiate planning for a biennial statewide crime victimization survey; and publish a biennial statewide report on Violence Against Women.
- Significant progress was made in the implementation of the Public University Research Consortium (PURC), a joint initiative of the Council and the University of Louisville. PURC has established a forum for enlisting the assistance and expertise of criminal justice and related program faculty from the eight state public universities for applied research, project evaluation, and program advisement. The PURC Advisory Board held its first meeting in March 2002 and three research projects are currently underway.
- As the first project of the Public University Research Consortium (PURC), a research team was identified in December 2001 to analyze data collected by the Kentucky State Police and 26 volunteer local agencies on law enforcement stops recorded during calendar year 2001. It is anticipated that research findings of the Racial Profiling Project will be released in July 2002.
- In January 2002, Council staff submitted a grant application to the National Institute of Justice for funding to support a statewide study of sentencing factors and corrections commitment rates across the regions of the Commonwealth. If funding is awarded, the project will be coordinated through the Public University Research Consortium.
- Based upon a legislative request submitted to the Council's Executive Committee, Eastern Kentucky University offered to conduct a statewide survey of law enforcement policies relating to use of force and citizen complaints. The findings of the study, entitled "Police Use of Force and Citizen Complaint Policies and Practices in Kentucky: A Statewide Survey and Content Analysis," were presented to the full Council in March 2002 by researcher Victor E. Kappeler, Ph.D., Professor of Police Studies.

Criminal Justice Policy/Legislative Impact:

- **Council Legislation**—During the 2002 session, the Council was successful in the passage of legislation drafted by the Court Costs Work Group of the Penal Code/Sentencing Committee to consolidate the process for collection of court costs and allocate funding on a percentage basis. The Council endorsed legislation enacted during the session pertaining to a juvenile's right to counsel; providing privileged communication in juvenile sex offender treatment; defining "juvenile sex offender assessment" and "mentally retarded;" and extending DJJ jurisdiction beyond age 18 for Youthful Offenders responding to treatment. The Council also endorsed legislation updating existing computer crime statutes and providing for testing and preservation of DNA evidence.
- **Hate Crime Legislation**—In November 2001, the Hate Crime Statistics Work Group reconvened to focus on the reporting of hate crime and the collection of statewide data—both official and anecdotal—to document the scope of hate crime in Kentucky. In addition to compiling a statewide report, legislation was sponsored by the Council during the 2002 session to enhance the penalty for crimes motivated by bias. Although the legislative proposal was unsuccessful, the work group plans to review existing educational programs for youth and raise public awareness about the nature of hate crime.

- **HB 843 Commission Legislation**—In September 2001, the Council reviewed and endorsed recommendations of the HB 843 Commission that were developed by the Criminal Justice/Behavioral Health Interface Work Group. The Council approved three additional recommendations of the Law Enforcement Issues Committee related to training police how to intervene in crisis situations involving individuals with serious mental illness. As a result of recent Executive Order, the Council's Executive Director has been added to the membership of the Commission. The Executive Director has also been asked to serve as the Chair of the Commission's Criminal Justice/Behavioral Health Interface Work Group.

Progress on Major Long Term Council Initiatives:

- **UCJIS Implementation**—With knowledge that UCJIS implementation represents a long term project that requires a significant allocation of resources, the UCJIS Committee has made tremendous progress over recent years and enlisted the participation and collaboration of key stakeholders at the federal, state and local level. Based on funding appropriated by the Kentucky General Assembly in 1998 and 2000, and in conjunction with federal grants and alternative funding sources, the following items highlight the accomplishments of the UCJIS Committee over the past year:
 - ✓ Initiated the Computerized Criminal History (CCH) Project with the help of Science Applications International Corporation (SAIC) to replace the current Criminal History Records Information System (CHRIS), which is nearly three decades old. The CCH Project is necessary not only to bring Kentucky's criminal history system into compliance with federal Triple I (III) standards, but also to better position KSP to share and exchange data with other criminal justice agencies—the key focus of UCJIS. The CCH project is a major undertaking by the commonwealth and will require continued funding to establish and maintain successful implementation.
 - ✓ Initiated and supported wireless data pilot projects to identify the most reliable, efficient, and cost-effective wireless data communication infrastructure(s) available to the Commonwealth. Satellite, private radio wireless data, and a combination of the two technologies are being tested on a variety of terrains. Law enforcement from KSP, sheriffs and local police departments are participating in the pilots. The cruisers are outfitted with mobile data computers (MDCs) equipped with software allowing them to request data directly from the source instead of relaying through a dispatcher. The pilots have proven very successful. Funding the infrastructure is the biggest challenge.
 - ✓ A Warrants White Paper was completed as a basis for implementation of a statewide warrants system. The UCJIS Project was awarded a \$1M grant to implement an automated warrants pilot in at least four sites throughout the state. The UCJIS Automated Warrants Work Group has begun to map a business process for arrest warrants and develop guidelines for collecting the data and serving the warrants. The Commonwealth/County Attorneys have agreed to work on standardization of the arrest warrant form. UCJIS staff is working to procure equipment and necessary software to house a statewide database.
 - ✓ The Louisville-Jefferson County Demonstration Project continues to move ahead and significant progress has been made on the E-citation pilot.
 - ✓ An RFI, and subsequently an RFP, was released by KSP for a Statewide Computer Aided Dispatch/Record Management System/Mobile Data Computer solution. UCJIS staff provided support by reviewing the RFI responses and providing input on development of the RFP.

- ✓ The UCJIS Project provided assistance in the implementation of the new digital driver's licenses statewide.
- ✓ The UCJIS website (<http://ucjis.state.ky.us>) was updated and serves to document UCJIS efforts and provides a ready source of information on UCJIS Committee and work group activities.
- **Penal Code Reform**—Under the direction of Professor Paul Robinson, Northwestern University (who serves as Reporter for the Penal Code Revision Project), members of the Penal Code Work Group have reviewed drafts of the general part provisions and the accompanying official commentary. A draft of the special part provisions is near completion and will be forwarded to the work group in the coming weeks. Upon completion of the review process, the Penal Code Work Group will publish an annotated draft, which will document work to date on the Penal Code Revision Project and will also provide the foundation for identifying consensus items for future legislative action.
- **Embedding Prevention in State Policy and Practice**—Since its inception, the Kentucky Embedding Project Team has been actively pursuing its goal of making prevention the statewide policy of choice. As a result of its participation in the Embedding Initiative, Kentucky was selected by the National Crime Prevention Council and the Drug Enforcement Administration to host a statewide planning summit on methamphetamine and Oxycontin in June 2002. The project has also initiated a process for statewide survey research and database development to document the scope of prevention activities across the commonwealth.
- **Capital Litigation**—Based upon its study of capital litigation issues over the past 18 months, the Capital Litigation Committee reached near consensus in converting its recommendations for research into a legislative resolution calling for a comprehensive study of capital cases in the commonwealth. Although the legislation was unsuccessful, alternative sources of funding are being sought to support implementation of the study.
- **Parole Decision Making**—Beginning in May 2002, the Corrections/Community-Based Sanctions Committee undertook a comprehensive study of parole decision making. Based upon a review of resource information and testimony, the committee issued 17 recommendations to promote improvement of the parole process.
- **Computer Crime**—Based upon the findings of the Law Enforcement Issues Committee that computer crime takes several forms; that it is occurring more frequently; that investigation entails difficult technical and legal issues; and that Kentucky has a limited capacity for detecting and investigating computer crime, the committee issued six recommendations that were unanimously approved by the full Council. The recommendations address issues ranging from training, forensic examination of evidence, and investigation to the development of operational standards and necessary revisions in statutes relating to computer crime.

National/State Recognition:

- The UCJIS Committee has continued to receive national recognition for its governance structure and for its progress in facilitating the implementation of a computerized Unified Criminal Justice Information System in Kentucky. Aldona Valicenti, UCJIS Committee Chair, was keynote speaker at the national 2002 SEARCH Symposium on Integrated Justice Information Systems held in Washington, D.C. Paul Embley, UCJIS Project Manager, was also a speaker and participated in round table discussions on integrated justice issues. Additionally, UCJIS was among 26 states to receive funding from the National Governors Association and Office of Justice Programs for IT Initiative Projects. The UCJIS Deputy Project Manager made a presentation on Kentucky's Automated Warrant Project at the National Governor's Association Project States Workshop.

- In November 2001, the Council's Executive Director received the Public Policy Fairness and Reliability Award from the Kentucky Association of Criminal Defense Lawyers. In May 2002, the Executive Director received an Appreciation Award from the Jefferson County Drug Court in recognition of distinguished and continuing contributions and in honor of National Drug Court Month.

Council Publications:

- On July 1, 2002, the Council published its second interim report, *Kentucky Criminal Justice Council: Activities, Findings and Recommendations*. In compliance with the statutory mandate KRS 15A.040, the Interim Report was forwarded to the Governor and the Kentucky General Assembly.
- In June 2002, the Juvenile Justice Committee published a report documenting its comprehensive study of juvenile sex offenders. The report is entitled, *Kentucky's Response to Juvenile Sex Offenders: The Findings and recommendations of the Juvenile Justice Committee of the Kentucky Criminal Justice Council*.
- In March 2002, the Council published its first annual report on hate crime, entitled *Hate Crime and Hate Incidents in the Commonwealth of Kentucky: A Report of the Hate Crime Statistics Work Group of the Kentucky Criminal Justice Council*.
- In March 2002, the Council issued a new publication listing all of the statewide criminal and juvenile justice-related groups and organizations. The booklet, entitled *Resource Guide: Statewide Inventory of Criminal Justice Organizations/Groups*, will be updated annually.
- In March 2002, the Council published its second edition of the *Sourcebook of Criminal Justice Statistics in the Commonwealth* and distributed copies statewide.

EXECUTIVE SUMMARY (CONT.)

Although the Council's recommendations are presented in conceptual form at this time, it is anticipated that the Council will continue to refine these proposals over the coming months and work cooperatively with the Office of the Governor and the Interim Joint Committee on Judiciary to draft specific language in preparation for the 2003 session of the Kentucky General Assembly. Since the standing Council committees meet on an ongoing basis, it is likely that additional recommendations will be forthcoming.

COUNCIL ORGANIZATION AND PROCESS

Council Charge:

KRS 15A.040, which was enacted in 1998, established the Kentucky Criminal Justice Council and its membership and delineated its mission and duties. First and foremost, the Council is charged with long-range planning and making recommendations to the Governor and the General Assembly on criminal justice policy involving all elements of the criminal justice system including, but not limited to, the following subjects:

- Administration of the criminal justice system;
- Rights of crime victims;
- Sentencing issues;
- Capital litigation;
- A comprehensive strategy to address gangs and gang problems; and the
- Penal Code.

The Council is further charged with developing model criminal justice programs; disseminating information on criminal justice issues and crime trends; providing technical assistance to all criminal justice agencies; reviewing and evaluating proposed legislation affecting criminal justice; and assisting local communities in mobilizing community resources to address problems related to gangs.

When the Council was organized, the membership approved the following mission statement to provide direction for its work:

“To provide the Governor and the Kentucky General Assembly with recommendations to guide decision-making and policy development on issues involving law enforcement, the courts and corrections and through research, planning and evaluation, to reduce crime and improve the fair administration of justice in the Commonwealth of Kentucky.”

Council Membership:

Although there has been some transition in Council membership resulting from leadership changes within the organizations represented, the majority of Council members have remained stable over the first four years of operation. This continuity has served to promote cohesion among the Council as a planning and coordinating body as well as consistency in approach.

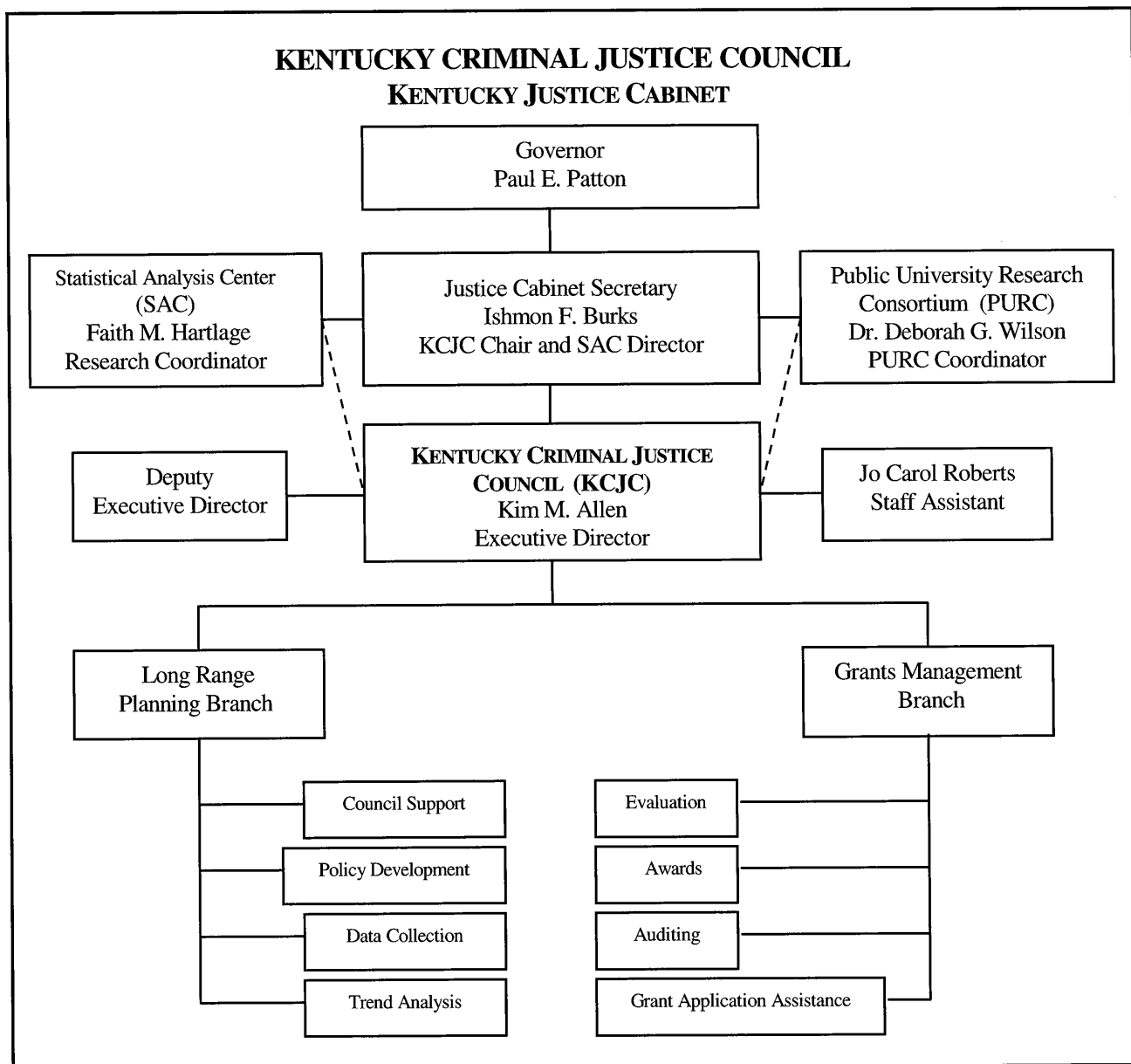
By virtue of the enabling legislation, the Council includes broad representation from law enforcement, the courts, corrections, prosecution, the legislature, professional associations, the defense bar, a crime victim, victim advocates, and faculty members from state universities. In addition to the 28 members originally designated in KRS 15A.040, four additional members have been added by statute (Chief Information Officer for the Commonwealth; Commissioner of the Department of Corrections; Commissioner of the Department of Juvenile Justice; and Commissioner of the Department of Criminal Justice Training) bringing the current total to 32 members.

Based upon recommendations approved by the full Council during 2001, it is anticipated that the Executive Director of the Parole Board and a representative from the Department of Mental Health/Mental Retardation Services will be added to the membership of the Council by Executive Order in the near future.

Office of the Criminal Justice Council:

When the Office of the Criminal Justice Council was created within the Kentucky Justice Cabinet in the summer of 1998, it was established with two branches: a Long Range Planning Branch to support the work of the Council and the Grants Management Branch (formerly the Division of Grants Management). The Council staff and grants management personnel were combined to ensure that allocation of grant resources is tied to the strategic priorities established by the Governor, the General Assembly, and the Council. In this manner, the Council also has access to data and information gained through the grants administration process.

The operation of the Council Office has been supported by three primary staff. These positions currently include an Executive Director, Deputy Executive Director, and Staff Assistant. Following the relocation of the State Statistical Analysis Center (SAC) from the Office of the Attorney General to the Office of the Council in March 2000, the SAC unit has been operated by a Research Coordinator within the Office of the Council.



Grants Management Branch

The Grants Management Branch consists of seven financial and program staff under the direction of the Grants Management Branch Manager. The Grants Management Branch is responsible for administering an average of 11-13 federal and state criminal justice funding programs totaling approximately \$17 million dollars annually. The current list of grant programs includes the following:

- Bulletproof Vest Partnership Program (BPV)
- Edward Byrne Memorial State and Local Law Enforcement Assistance Program
- Grants to Encourage Arrest Policies (Domestic Violence)
- Justice Statistics Program (Statistical Analysis Center)
- Law Enforcement Service Fee Fund (LESF)
- Local Law Enforcement Block Grant (LLEBG)
- National Criminal History Record Improvement Program (NCHIP)
- Residential Substance Abuse Treatment Program (RSAT)
- Rural Domestic Violence and Crime Victimization Enforcement Grant Program
- Victims of Crime Act (VOCA)
- Violence Against Women Act (VAWA)
- Violent Offender Incarceration and Trust in Sentencing Act (VOITIS)

Over the past year, the Grants Management Branch (GMB) has undertaken a number of new initiatives to improve the efficiency of grants administration and to streamline the application process for state and local agencies seeking program funds. Among these initiatives, the Grants Management Branch developed program briefs on each source of federal funding and posted the information on the Council website (www.kcjc.state.ky.us). The GMB has also developed a revised, user-friendly packet for continuation applications; used mapping software to map the distribution of grant awards across the commonwealth; and integrated strategic priorities approved by the Criminal Justice Council into the grants application process (See Appendix E).

The GMB has begun the process of providing electronic access to grant application forms on the website and is exploring implementation of an electronic grants management system to provide access to financial information on individual grants via the Internet. The GMB is also in process of updating its policy and procedure manual and restructuring its staffing pattern to focus resources on fiscal and program monitoring, provision of technical assistance, and project evaluation.

Statistical Analysis Center

It is the mission of the Kentucky Statistical Analysis Center (SAC) to analyze and disseminate criminal justice data in the Commonwealth of Kentucky. The SAC contributes to the development of effective state policy through its role in data collection, research, evaluation and policy analysis. The SAC unit is located within the Office of the Kentucky Criminal Justice Council and serves as its research arm.

State Statistical Analysis Centers represent a network of criminal justice agencies or units supported in part by the Bureau of Justice Statistics to enhance state capabilities to collect, analyze and report statistics on crime and justice. Through the network of SAC units across the country, the Bureau of Justice Statistics facilitates the identification and analysis of emerging criminal justice topics and enhances access to national data on crime incidence and prevalence.

In addition to maintaining a Criminal Justice Clearinghouse within the office of the Council, the SAC Research Coordinator is charged with planning and implementing a biennial crime victimization survey and compiling a biennial Violence Against Women Report in conjunction with the Governor's Office on Child Abuse and Domestic Violence Services. During the second year of operation, the SAC Research Coordinator reorganized the statewide clearinghouse of criminal justice resource information and made significant progress in compiling the first biennial statewide report on Violence Against Women. It is anticipated that the Violence Against Women Report will be published in late summer and the biennial statewide crime victimization survey will be undertaken in September 2002.

Over the past year, the SAC was instrumental in publishing the second edition of the *Sourcebook of Criminal Justice Statistics in the Commonwealth*, the *Resource Guide: A Statewide Inventory of Criminal Justice Organizations/Groups*, and the first annual report of the Hate Crime Statistics Work Group.

Public University Research Consortium

In response to the need for improved data throughout the criminal justice system to guide decision making and policy development, the Kentucky Criminal Justice Council partnered with the University of Louisville to establish the Public University Research Consortium (PURC). PURC represents a collaborative effort between the state's eight public universities and state government designed to enlist the assistance and expertise of criminal justice and related program faculty for applied research purposes. PURC is comprised of academic researchers located regionally throughout the state.

Although contacts with criminal justice and related faculty were initiated during the summer of 2001, the first PURC Advisory Board meeting was held in March 2002. The Advisory Board is made up of representatives from each university and charged with establishing operating procedures for issuing and responding to research announcements; coordinating the dissemination of information to PURC faculty; and providing consultation to state agencies seeking assistance with research initiatives. A state agency contact list has been established to link interested state agency personnel with the consortium.

As its first project, a PURC research team was formed to analyze data collected by the Kentucky State Police and 26 volunteer local law enforcement agencies as part of the state's initiative on racial profiling. PURC researchers are also participating as evaluators in grant-funded projects involving Kentucky Child Advocacy Centers and a statewide impact study of the use of structured forensic interviewing in cases involving allegations of child sexual abuse.

Council Process:

Over the last four years, the Council has met on a regular basis with both the attendance and participation of members remaining excellent. The Council has established a viable and working committee structure consisting of eight standing committees. These include the following:

Executive Committee
Secretary Ishmon F. Burks, Chair

Capital Litigation Committee
Rep. Rob Wilkey, Chair
Judge William Knopf, Vice Chair

Corrections/Community-Based Sanctions Committee**Ernie Lewis**, Chair
Pat Byron, Vice ChairDrug Strategy Committee
(To be Reconvened)Juvenile Justice Committee
Sen. Gerald Neal, Chair
Judge Megan Lake Thornton, Vice ChairLaw Enforcement Issues Committee
Dr. Gary Corder, ChairPenal Code/Sentencing Committee
Professor Bill Fortune, Chair
Carol Jordan, Vice ChairUnified Criminal Justice Information System Committee
Aldona Valicenti, Chair

Since KRS 15A.040 authorized the Criminal Justice Council to establish committees and to appoint additional persons who may not be members of the Council as necessary to accomplish its purposes, the membership of the various committees has been expanded to ensure broad representation; to include members with specialized expertise; and to enlist input from the local level.

The Executive Committee, consisting of the Chairs and Vice Chairs of the remaining seven Council committees, serves as the leadership body for the Council. The Executive Committee is charged with developing agendas for Council meetings; identifying issues and making policy recommendations; providing direction for the efforts of the Council; serving as a gatekeeper and setting priorities on requests received from outside bodies; assigning issues to committees; and promoting coordination across the committees.

In addition, as you will note in Appendix F, a number of work groups have been established under the standing committees to examine specific issues in greater detail. Existing work groups include the Status Offender Work Group (Juvenile Justice Committee); the Restitution Work Group (in process of being formed) and the Penal Code Work Group (Penal Code/Sentencing Committee); the Hate Crime Statistics Work Group (Law Enforcement Issues Committee); and six issue-specific work groups created under the UCJIS Committee: Technology, Legal Policy, Automated Warrant System, Public Relations, Funding, and Wireless Communications. The Data Advisory Team, which serves as an ad hoc work group and consults on Council data and research initiatives including SAC and PURC projects, has continued as part of the Council's committee structure and meets on an as-needed basis.

Major Council Initiatives:

Over the course of the last four years, the Council has transitioned from its early focus on basic organization and completion of the time-sensitive studies mandated by KRS 15A.040, to undertaking a number of major criminal

justice reform initiatives. The initiatives highlighted below will be discussed in greater detail under each committee section, but clearly represent projects that will have a significant impact on criminal justice policy and the operation of the criminal justice system across the commonwealth. By their very nature, these projects require intensive planning and coordination, broad-based input and support from all levels of government, and sufficient resources (including funding, staff, and other resources).

Penal Code Reform

As one of its statutory mandates, the Council is charged with studying and making recommendations on the Penal Code. Under the direction of Professor Paul Robinson, Northwestern University College (who serves as Reporter for the Penal Code Revision Project), members of the Penal Code Work Group are reviewing general and special part provisions along with the accompanying draft of the official commentary. Upon completion of the review process, the Penal Code Work Group will publish an annotated draft to document its work to date and to provide the foundation for identifying consensus items for future legislative action.

UCJIS Implementation

As mandated in KRS 17.131, the Council is charged with planning and implementing a statewide Unified Criminal Justice Information System in the Commonwealth. Since these efforts were transitioned under the auspices of the Council in 1998, significant progress has been made in laying a solid foundation for phasing in components of the system over the coming years. Efforts currently underway include the initiation of the Computerized Criminal History (CCH) Project; wireless data pilot projects; and an E-citation demonstration project. Based upon the recent completion of a Warrants White Paper, the UCJIS Committee is also working on implementation of a statewide automated warrants system.

Establishing a Continuum of Community-Based Sanctions

Based upon comprehensive recommendations issued by the Corrections/Community-Based Sanctions Committee in 2001, legislation was sponsored during the 2002 session to provide the necessary resources and infrastructure for effective statewide utilization of community-based sanctions. The legislation specifically proposed restructuring of the Kentucky State Corrections Commission to develop a statewide strategic plan and parameters for implementation of community-based sanctions for nonviolent offenders as well as establish a mechanism to evaluate the effectiveness of these programs. Although the legislation was unsuccessful, the Council is pursuing alternative avenues for implementing these important recommendations.

Ensuring a Fair, Efficient and Effective Capital Litigation Process

Although the Capital Litigation Committee reached near consensus in its recommendations to ensure that the capital litigation process is fair, efficient and effective and in converting the recommendations into a legislative resolution calling for a comprehensive study of capital cases in the commonwealth, the proposal was unsuccessful during the 2002 session. Alternative sources of funding are currently being sought to support implementation of the study. The committee also issued a recommendation calling for testing and preservation of DNA evidence in capital cases which was addressed legislatively during the 2002 session.

Embedding Prevention in State Policy and Practice

As one of six states chosen to participate in the National Crime Prevention Council's initiative entitled, "Embedding Prevention in State Policy and Practice," the Kentucky Embedding Team has made significant progress in building a collaborative network of partners and raising awareness about prevention initiatives across the commonwealth. As a result of its participation in the Embedding Initiative, Kentucky was selected to host a statewide planning summit on methamphetamine and Oxycontin in June 2002. The summit was sponsored by the National Crime

Prevention Council and the Drug Enforcement Administration. The Criminal Justice Council is participating as part of the state's project team on this initiative and is assisting in an effort to conduct a law enforcement survey to provide baseline information on prevention programs and services offered across the state. Most recently, the Council's Executive Director agreed to serve as Chair of the Embedding Project's Policy Committee.

Promoting Information Sharing within the Juvenile Justice System

Over the past year, the Juvenile Justice Committee has undertaken a study of information sharing within the juvenile justice system. Over the course of the committee's work to date, lack of clarity regarding state policy and conflicting statutory mandates on information sharing have been recurring themes. Committee accomplishments include completing a report highlighting all relevant statutory and policy considerations; enlisting broad-based feedback on the report and input into the committee process; conducting research on state models; and developing a draft definition of "aggregate data."

Future Council Directions:

In addition to its focus on the major initiatives described above, the Council has identified a series of new issues to be addressed in the coming months. While some of these issues reflect projects to be undertaken by the Council, others reflect projects on which staff will serve or participate to lend the support of the full Council.

- **Promoting Uniformity in the Collection of Restitution**—Following its successful initiatives involving prepayable fines and consolidating court costs, the Penal Code/Sentencing Committee is in process of forming a Restitution Work Group to study issues related to the collection of restitution across the state and to develop comprehensive recommendations to improve that process.
- **H.B. 843 Commission—Criminal Justice/Behavioral Health Interface Work Group**—In light of the overlap between the mental health and criminal justice systems in responding to offenders with mental illness and substance abuse problems, the Council is working collaboratively with Criminal Justice/Behavioral Health Interface Work Group established by the H.B. 843 Commission. The Executive Director of the Council was recently added to the Commission membership by Executive Order and asked to serve as chair of the Criminal Justice/Behavioral Health Interface Work Group. As its first project, the work group has been charged with developing a curriculum for training jailers on issues related to suicide prevention and responding to individuals with serious mental illness.
- **Planning/Coordination of Statewide Drug Enforcement Initiatives**—Although the Council's Drug Strategy Committee has not met over the past year, it is anticipated that the committee will be reconvened in the near future to establish a neutral forum for coordination of statewide efforts in drug enforcement. As one of its new assignments, the committee will be charged with assisting in the implementation of recommendations generated at the statewide summit on methamphetamine and Oxycontin as well as coordinating efforts with the Governor's Oxycontin/Prescription Drug Abuse Task Force.
- **Review of Statutory Mandates for Law Enforcement Training and Policy Development**—As part of its role in reviewing and making recommendations on policing issues, the Council's Law Enforcement Issues Committee plans to undertake a study of the existing statutory requirements for law enforcement training and departmental policy and to explore how similar mandates are monitored and coordinated in other states. Upon completion of its study, the committee will submit its recommendations to the full Council.

- **The Expanding Role of the Faith-Based Community in Community Corrections and Offender Re-entry**—Upon completion of its study of parole decision making, the Corrections/Community-Based Sanctions Committee plans to study the expanding role of faith-based organizations in community corrections and offender re-entry programs and to submit recommendations to the full Council on these efforts in the commonwealth.

“Broad-based representation helps to ensure that every agency affected by changes...has the opportunity to offer valuable insights regarding the plan for achieving program goals. This strategy also helps to prevent agencies that are not included in the planning process and/or that do not agree with the mission, goals, or strategy from scuttling a program or delaying its implementation.”¹

Summary of Committee Process and Recommendations:

EXECUTIVE COMMITTEE

Committee Charge:

The Executive Committee, consisting of the Chairs and Vice Chairs of the seven standing Council Committees, serves as the leadership body for the Council. The Executive Committee is charged with developing agendas for Council meetings; identifying issues and assigning issues to committees; developing recommended policies; providing direction for the efforts of the Council; serving as a gatekeeper and setting priorities for requests received from outside bodies; and promoting coordination across the committees.

Committee Process:

The Executive Committee generally meets three to four times yearly or on an as-needed basis to respond to requests for Council action or assistance and to discuss issues requiring coordination across committees. The Executive Committee also submits recommendations to the full Council on issues or topics that pertain to the work of the Council as a whole.

Committee Recommendations:

Following considerable review and discussion by Executive Committee members, the following two documents were submitted to the full Council for approval during the past year. Based upon a vote of the Council, both documents were adopted.

(1) Rights of Crime Victims and Related Implications for Council Action (Appendix D)

A proposed policy statement addressing rights of crime victims was presented to the Executive Committee for consideration in June 2001. In light of the Council's decision to incorporate the perspective of crime victims and victim advocates into the work of every standing committee rather than establish a separate committee to address victims' issues, the policy statement was developed to promote balanced approaches and to recognize the integral role of crime victims in the criminal justice process.

The policy statement was reviewed and revised by the Executive Committee and distributed statewide to over 250 victim advocates for review and comment. In May 2002, the policy statement was unanimously adopted by the Council and will provide guidance to the Council and its committees in the consideration of all future actions and recommendations. The policy statement specifically includes information on the motivation of crime victims, the rights of crime victims, and implications for the Kentucky Criminal Justice Council.

(2) Summary of Council Priorities for Grant Funding (Appendix E)

When the Office of the Criminal Justice Council was created within the Justice Cabinet, it was established with two branches—the Long-Term Policy Branch and the Grants Management Branch (formerly the Division of Grants Management). By integrating grants administration into the Council Office, it was envisioned that data

and information utilized by the Council in the development of policy should also guide the identification of strategic priorities for allocation of federal grant funding. Similarly, information derived from grant projects, including crime data and identification of effective programs, would funnel back to the Council.

Based upon a review of statewide data incorporated in the second edition of the *Sourcebook of Criminal Justice Statistics in the Commonwealth*, input from current subgrantees and constituency groups, and information from previous grant planning sessions, the Grants Management Branch compiled the initial draft of general and specific grant priorities. The draft was reviewed and revised by the Executive Committee prior to submission to the full Council. It was subsequently reviewed and approved by the Council with only minor revisions.

It is anticipated that strategic priorities of the Council will be updated on an annual basis and incorporated into the grant review process utilized by the Grants Management Branch. In this manner, grants applications that target either general or specific priority areas will receive additional consideration in the review process.

Council Collaboration with H.B. 843 Commission

H.B. 843, which was enacted during the 2000 session of the Kentucky General Assembly, created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. Based upon input from Regional Planning Councils (established under the Regional Mental Health/Mental Retardation Boards), the Commission was charged with developed a comprehensive state plan pertaining to individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses.

In preparation for the 2002 session, the Council worked collaboratively with the H.B. 843 Commission in addressing issues involving mentally ill offenders in the criminal justice system and served as a resource for the Commission's Criminal Justice/Behavioral Health Interface Work Group. As an outcome of that process, the Council formally endorsed nearly every recommendation of the Criminal Justice/Behavioral Health Work Group in September 2002 and offered three additional recommendations pertaining to training of law enforcement on responding to crisis situations involving the seriously mentally ill.

Most recently, the Executive Director of the Criminal Justice Council was added to the membership of the H.B. 843 Commission by Executive Order and asked to serve as the Chair of the Criminal Justice/Behavioral Health Interface Work Group. The work group reconvened in May 2002 and will be focusing immediately on issues pertaining to the provision of jail mental health training and consultation to jailers, especially as its relates to suicide prevention and risk management. Over the coming months, the work group also plans to revisit its previous recommendations; review delineated sections of KRS 202A and 504; pursue federal grant funding to support a pilot mental health court project; and conduct a comprehensive study of juvenile mental health issues.

“Effective collaboration also protects the leaders essential to successful change. All public system reform requires risk taking on the part of its leaders. The justice system operates in a politically charged environment...Maintaining the status quo is much easier and certainly the path of least resistance. It is safer, but it is sometimes wrong...but no leader can or should be expected to bear all the risks. A collaborative body involving all the system’s actors provides a context for leadership to emerge and offers the protection of collegial support and policy consensus when controversy – a predictable by-product of real change – eventually arises.”²

CAPITAL LITIGATION COMMITTEE

Committee Charge:

The Capital Litigation Committee was formed in July 2000 in response to the statutory mandate in KRS 15A.040 requiring that the Council review and make recommendations on capital litigation. The Committee was given the charge of reviewing capital litigation process to ensure that the current system is fair, effective and efficient. Given that Kentucky currently has established policy and statutes pertaining to the death penalty, it was specifically stated that the committee would not focus on policy issues related to capital punishment, but rather limit its discussions to the capital litigation process.

Committee Process:

Over the past year, the Capital Litigation Committee met on a total of three occasions and held its last meeting on January 8, 2002. Following approval of the committee's two primary recommendations by the full Council last summer, the committee focused its attention on gathering additional information on the capital litigation process in Kentucky along with identifying ways to implement the recommendation calling for a comprehensive study of capital cases.

In October 2001, the committee received a presentation on capital case reversals in the commonwealth. Following a request of the committee and based upon a joint effort between the Department of Public Advocacy and the Office of the Attorney General, historical data on reversals of capital cases was expanded to identify the basis for reversal as described in information published in Westlaw.

In December 2001, the committee received an on-site presentation from Professor Samuel Gross, University of Michigan Law School. Professor Gross served as a consultant to the national Constitution Project, a bipartisan group consisting of both supporters and opponents of the death penalty, which conducted research as part of its Death Penalty Initiative. Professor Gross provided the committee with a range of possible options and anticipated costs for conducting a statewide study of capital cases.

At its most recent meeting in January 2002, the committee reviewed staff research on the issue of proportionality review. These reviews are generally conducted by a state's Supreme Court and allow the reviewing court to consider all relevant information in determining whether imposition of the death penalty is appropriate in a given case when compared to other cases.

Status of Committee Recommendations:

In the spirit of coming to the table with an open mind, avoiding extreme positions, and seeking to identify the middle ground, members reached near consensus in converting the committee's recommendation calling for a comprehensive study into a legislative resolution. The resolution incorporated the following list of issues:

- Delay in implementing the penalty imposed and consideration of reforms in the review process to make it more timely (revision of RCr 11.42 and possible recommendation to Kentucky Supreme Court regarding stay practice);
- Incorporate balanced and systemic input, including prosecution and defense and victims' families, into any study;
- Effective assistance of counsel (minimum standards, certification) and training for trial judges;
- Access to DNA evidence;

- Evidentiary issues, e.g. jailhouse informant testimony identified as a problem in other jurisdictions; uncorroborated eyewitness testimony; and unrecorded confessions;
- Resources for prosecution and defense (establishment of special teams, representation/investigation experts);
- Prosecutor discretion in seeking death penalty; adaptation of federal guidelines or procedures in other states; independent review team to ensure statewide consistency in considering factors of race, geography, gender, economic status, age, cognitive abilities, and aggravating circumstances/level of culpability; and
- Jury selection and jury instruction in death penalty cases; educating potential jurors on trial process and overall operation of criminal justice system; and criminal background checks of jurors in death penalty cases.

With the hope of receiving legislative funding to provide the required match for a federal grant to conduct the study, Rep. Rob Wilkey, Committee Chair, sponsored a legislative resolution during the 2002 session. Although the resolution successfully passed the House, it remained in the Senate Judiciary Committee at the end of the session. At the present time, alternative sources of funding are being sought to support implementation of the study. In regard to the committee's second recommendation for access to DNA evidence in capital cases, which was approved and endorsed by the full Council, legislation was enacted during the 2002 session that revised the process for an offender on death row to request DNA testing.

Pending Committee Issues:

- Possible committee oversight role in any future study of the capital litigation process.

“Systemwide planning affords an opportunity for the disparate components of the justice structure to work together. Collaboration in the analysis of problems and the sharing of information, resources, and expertise can build local capacity for crime prevention, justice reform, and community mobilization. Strong planning capacity can also provide elected officials and criminal justice executives with the data and analysis essential for establishing rational policies and priorities for a complex system.”³

CORRECTIONS/COMMUNITY-BASED SANCTIONS COMMITTEE

Committee Charge:

Following creation of the committee in 1998, the membership has undertaken a number of challenging assignments including studying the fiscal and public safety effects of involuntary civil commitment for convicted sexual predators as mandated by statute and conducting a comprehensive study of the current sentencing policy in the Commonwealth as it pertains to the use of alternative sanctions. Most recently, the committee conducted a comprehensive study of parole decision making and the parole process. The Corrections/Community-Based Sanctions Committee has also been asked to review issues related to decision points at which offenders are released back into the community; institutional and jail facilities; restorative justice approaches; and prison population forecasting.

Committee Process:

The committee, which incorporates broad-based criminal justice system and community representation, launched its study of parole decision making in October 2001. At the outset, members agreed that the focus of the study would involve determining whether or not Kentucky should retain parole, and if so, to generate recommendations to promote improvement or enhancement of the parole process.

Over a nine-month period in which the committee met on eight occasions, members gathered extensive information on the operation of the Parole Board, the structure and function of parole boards across the country, and issues related to parole decision-making. It also received testimony from a wide range of individuals and constituency groups. The committee received presentations from the Chair of the Kentucky Parole Board; Offender Information Services; Probation and Parole; the American Probation and Parole Association; the Kentucky Department of Corrections; former Parole Board Chairs; Kentuckians' Voice for Crime Victims; a parolee under active supervision; Kentucky Parole Board members; the Prosecutors Advisory Council; the Department of Public Advocacy; and the Kentucky Association of Criminal Defense Lawyers.

As part of its review process, the Committee also applied for and received technical assistance from the National Institute of Corrections, which included a presentation to the committee by Paul Herman, Senior Manager, Center for Effective Public Policy. As a consultant for the National Institute of Corrections, Mr. Herman provided the committee with national perspectives on parole board structure and operation.

Upon completion of scheduled testimony, committee members were invited to submit possible recommendations for consideration. Additionally, based upon a summary of presentation highlights compiled by staff, a list was compiled to identify possible items for committee recommendations. The committee then scheduled a three-hour session to discuss possible recommendations and reached consensus on 17 recommendations. These recommendations have been forwarded to the full Council for review and a formal vote. The committee is scheduled to meet again in July 2002 to consider any remaining items in the parole study and it is possible that additional recommendations will be forthcoming at that time.

Committee Findings and Recommendations:

Over the course of its study, the committee identified broad support for retention of parole as a discretionary release mechanism. The committee recognized that over 95% of offenders will be released at some point and offenders who serve out will be released without supervision. Of note, recent research findings on national trends in state parole suggests that of the 15 states which have abolished parole board authority for releasing all offenders (and the additional five states that have abolished parole board authority for releasing certain violent offenses or crimes against a person), all continue to utilize some form of post-release supervision. Findings also suggest that offenders released under discretionary parole systems tend to serve longer sentences than offenders released under mandatory parole systems (although the difference in time served between discretionary and mandatory releases is only a couple of months on the average).

Based on information provided by the Kentucky Parole Board for FY 2000-2001, a total of 10,258 inmates were interviewed/reviewed (5,047 cases were initial hearings/reviews, 3,523 deferred cases were interviewed/reviewed, and 1,688 revocation hearings were conducted). At the time of the initial hearing, 16% received a recommendation for parole and upon review of deferred cases, 60% receive a recommendation for parole. Parole was recommended in 3% of the revocation hearings. Combined figures indicate that parole was recommended in 29% of cases; 37% received deferments; and 34% were served out.

As of February 2002, the total probation/parole caseload in Kentucky was 22,244 (24% parolees and 76% probationers). The total caseload has been increasing by over 9% each year. A total of 358 officers statewide compile a total of 12,000 Presentence Investigation Reports annually. Officers return a large number of offenders to the institution for violations. During the last calendar year, there were 1,544 technical violations representing 92% of the total violations.

During its discussion of current parole board structure, the committee learned that it takes a significant period of time to become familiar with the parole process, that the majority of training occurs on-the-job, and that in comparison to surrounding states, current parole board salaries are not competitive. It also discussed the importance of autonomy for the Parole Board.

The committee learned that the Kentucky Parole Board is currently in process of receiving technical assistance to develop objective parole guidelines and a risk assessment instrument that will incorporate the severity of the offense as well as both static and dynamic factors that impact the level of risk for recidivism. The Board has made significant progress in recent years in the use of videoconferencing; developing a new Code of Ethics; compiling a new board member manual; and providing public access to information via the website.

Presentations from national presenters highlighted the importance of viewing parole as an entire process rather than just a release decision; having probation/parole officers supervising offenders out in the community as opposed to an office-based approach; the importance of "correcting rather than collecting offenders;" focusing resources on offender re-entry and transitional release; understanding that good probation/parole practice enhances public safety and that poor policy or practice can create additional risk for communities; and the importance of determining the impact of decisions on victims and what needs to be in place to promote the safety of victims or prospective victims.

Based on its comprehensive review of parole decision making and the parole process, the Corrections/Community-Based Sanctions Committee submitted the following recommendations to the full membership of the Criminal Justice Council:

Parole Decision Making

- (1) The Corrections/Community-Based Sanctions Committee supports retention of parole as a significant release mechanism.
- (2) The Corrections/Community-Based Sanctions Committee recommends the allocation of resources for data collection and research on the parole decision making process as a mechanism for modification and improvement of practices.
- (3) The Corrections/Community-Based Sanctions Committee is aware that the quality of a parole system is based on good information and structured decision making and supports the recent Parole Board initiative to develop objective parole guidelines and a risk assessment instrument and recommends that necessary resources be provided to permit full implementation.
- (4) The Corrections/Community-Based Sanctions Committee supports the concept of full victim participation in the parole process and recommends that the Board identify obstacles to victim participation and work toward their resolution.
- (5) The Corrections/Community-Based Sanctions Committee reiterates its support for the modification of the Kentucky State Corrections Commission and affirms the importance of the parole decision making process being part of the strategic plan created by the Commission.

Organizational Structure

- (6) The Corrections/Community-Based Sanctions Committee affirms that the Parole Board should function as an autonomous and independent entity.
- (7) The Corrections/Community-Based Sanctions Committee is aware that Kentucky is paying significantly less to Parole Board members than its surrounding states and the national average, and recommends increased compensation for Parole Board members in the commonwealth.
- (8) The Corrections/Community-Based Sanctions Committee recognizes the importance of initial and ongoing training of Parole Board members. The Committee recommends that the current training process be reevaluated and resources dedicated to expand training opportunities available to members of the board.
- (9) With knowledge that it takes Parole Board members a considerable length of time to become familiar with the parole process and comfortable with the decision making role, the Corrections/Community-Based Sanctions Committee recommends that consideration be given to changing the constitutional provision to extend the term of board members beyond four years.

Parole Supervision

- (10) The Corrections/Community-Based Sanctions Committee encourages the use of graduated sanctions on a case-by-case basis in responding to technical parole violations.

- (11) As previously recommended in 2001, the Corrections/Community-Based Sanctions Committee remains concerned regarding the caseloads of officers working in the community and recommends that funding be significantly increased to raise salaries for probation and parole officers, permit lower caseloads through hiring of new personnel, and encourage expansion of specialized treatment options.
- (12) Based on the fact that over 95% of offenders will be released at some point and that offenders who serve out will be released without supervision, the Corrections/Community-Based Sanctions Committee recognizes the importance of transitional release planning and re-entry programs and recommends that resources be made available for implementation.
- (13) The Corrections/Community-Based Sanctions Committee supports the role of the faith-based and restorative justice communities in the process of offender re-entry and recommends that these communities collaborate with the Department of Corrections in these efforts.

Public/System Education

- (14) The Corrections/Community Based-Sanctions Committee recommends that the Parole Board, in conjunction with the Justice Cabinet Public Information Officers, develop a comprehensive plan for educating victims, offenders, system professionals, and the public to increase understanding of the parole process and the operation of the Parole Board.
- (15) Based on awareness of difficulties experienced by Offender Information Services, Kentucky Department of Corrections, in calculating sentence length due to variations in court orders, the Corrections/Community-Based Sanctions Committee recommends that a collaborative effort be initiated with the Administrative Office of the Courts to include information on sentence calculations in existing training and educational programs for members of the judiciary.
- (16) The Corrections/Community-Based Sanctions Committee recommends that the Restitution Work Group of the Penal Code/Sentencing Committee explore obstacles and solutions to the determination, judicial order, collection and distribution of restitution.
- (17) Because sufficient resources for substance abuse treatment are lacking in both the institution and in the community, the Corrections/Community-Based Sanctions Committee recommends expansion of substance abuse treatment programs for offenders in the institution, on probation, and on parole.

Pending Committee Issues:

- Study of the role and involvement of the faith-based community in correctional programming
- Review of decision points in the system at which offenders are released back into the community
- Restorative justice approaches
- Institutional and jail facilities
- Prison population forecasting

“In the world of limited resources and increased demands for system accountability, criminal justice coordinating committees provide forums for the key players to work together, leaving their traditionally adversarial relationship behind in the courtroom. By working together toward the larger goal of improving service for the public, it is likely that criminal justice system leaders will also improve the functioning of their individual agencies.”⁴

DRUG STRATEGY COMMITTEE

Committee Charge:

The Drug Strategy Committee was originally charged with conducting a review of existing efforts in enforcement, treatment and prevention/education in the commonwealth and developing a statewide drug strategy. As part of its strategy, the committee was charged with developing a drug-specific action plan.

In preparation for the 2000 session of the Kentucky General Assembly, the Drug Strategy Committee met over a six-month period and developed a series of recommendations. Among its recommendations, the committee identified the need for a central office of Drug Control Policy attached to the Governor's Office. It was recommended that this office be charged with planning and developing policy recommendations relating to drug abuse and drug crime; coordinating and assisting local planning boards in conducting a needs assessment; evaluating existing programs and strategies; raising public awareness; and serving as the single point of contact for information and data on substance abuse policy and programs.

Based on this recommendation, legislation was enacted and funded in the 2000 session establishing the Kentucky Agency for Substance Abuse Policy (KY-ASAP). By statute, KY-ASAP is charged with promoting the reduction of alcohol, tobacco and other drug use through comprehensive, research-based state and county strategies; developing a statewide strategic plan; and making recommendations for viable and cost-effective programs relating to smoking cessation and prevention and alcohol and substance abuse prevention and treatment.

Although the Drug Strategy Committee has not met since 1999, the Criminal Justice Council has worked collaboratively with KY-ASAP in efforts related to substance treatment and prevention and in planning for the recent statewide summit on methamphetamine and Oxycontin. As result of Kentucky's participation in a project of the National Crime Prevention Council (NCPC), entitled, "Embedding Prevention in State Policy and Practice," the state was selected by NCPC and the Drug Enforcement Administration (DEA) to host a statewide drug summit in June 2002 in Lexington. As members of the state Embedding Prevention Project Team, both the Council and KY-ASAP have been designated to assist in the implementation of the recommendations and solutions developed by the 350 state and local participants at the drug summit.

Proposed Committee Reorganization:

In light of the statutory role of KY-ASAP in the planning and coordination of substance abuse treatment and prevention for the commonwealth, the Criminal Justice Council has revisited and revised the Drug Strategy's charge to create a forum for discussion of statewide drug enforcement efforts and strategies. The KY-ASAP Director will serve as a member of the Drug Strategy Committee to serve as a direct liaison between the two groups and to promote continuity in approach across the substance abuse domains of prevention/education, treatment and enforcement. The efforts of the Drug Strategy Committee will also be closely coordinated with the Council's Law Enforcement Issues Committee.

It is envisioned that the Drug Strategy Committee will be reconvened in during the summer of 2002. As part of its new focus, the membership of the original Drug Strategy Committee will be reviewed and new members will be added to ensure broad-based representation from the state and local level along with member expertise in drug enforcement. Although its initial charge will involve review and implementation of the drug summit recommendations, possible activities include the following:

- Identify the top five drug or substance abuse problems facing law enforcement in the commonwealth and collect data on the scope of each statewide

- Enlist input and recommendations from Regional Drug Task Forces
- Identify existing law enforcement strategies and resources
- Develop recommendations and drug-specific action plans for issues that have not been addressed in other statewide forums
- Monitor trends and evaluate the impact of statewide strategies including cost/benefit analyses and outcome measures
- Consider submitting a state application for federal funding to implement the Arrestee Drug Abuse Monitoring Program (ADAM)
- Publish an annual Drug Strategy Status Report detailing statewide law enforcement activities in addressing drug-related crime

It is also envisioned that the Drug Strategy Committee will coordinate its efforts with the Governor's Oxycontin/ Prescription Drug Abuse Task Force and with new initiatives planned by Justice Secretary Ishmon F. Burks to improve coordination of efforts to address drug abuse treatment, prevention and enforcement within the Justice Cabinet.

“Real reform is not possible without taking risks. Collaborative work mitigates that risk. One of the benefits of collaborative change structures is that once the group builds its strength and gets a sense of its power, it realizes that risks can be taken more readily. When the whole group has developed consensus about what should be done, it represents a united front of experts speaking with one voice. This is a formidable voice, one that is difficult to ignore. Collaborative leaders are wise if they are able to gauge when and how to use this voice, this power, and when not to. Leadership must manage this newly found power carefully.”⁵

JUVENILE JUSTICE COMMITTEE

Committee Charge:

Following its formation in 1998, the Juvenile Justice Committee reviewed and made recommendations on a number of emerging topics including studying the concept of decriminalizing status offenders and considering whether the terminology used in the Juvenile Code should be changed to be more consistent with the adult system. The Juvenile Justice Committee also conducted a comprehensive study of juvenile sex offenders in response to a recommendation of the Governor's Sexual Assault Task Force. Upon completion of the study, the committee published a report entitled, *Kentucky's Response to Juvenile Sex Offenders: The Findings and Recommendations of the Juvenile Justice Committee of the Kentucky Criminal Justice Council*, to document its efforts and serve as a statewide resource on issues relating to juvenile sex offenders.

As part of its early work, the Juvenile Justice Committee reviewed information on disproportionate minority confinement and statewide prevention initiatives. As a result, the Committee issued recommendations prior to the 2000 session calling for sufficient funding to conduct a statewide baseline study on disproportionate minority confinement (DMC) and increased funding to expand the focus and number of Juvenile Delinquency Prevention Councils operated under the auspices of the Department of Juvenile Justice across the state. Ultimately, funding was obtained by the Department of Juvenile Justice to undertake the DMC study and to expand the Juvenile Delinquency Prevention Councils.

Based upon a recommendation of the Juvenile Justice Committee prior to the 2002 session, the Criminal Justice Council endorsed legislation pertaining to a youth's right to counsel. Additionally, in recognition for the need for improved coordination among state agencies and organizations dealing with issues related to juvenile justice, the committee provided the impetus for development of a statewide resource guide, which was published by the Council in March 2002 and entitled, *Resource Guide: Statewide Inventory of Criminal Justice Organizations/Groups*.

The Status Offender Task Force, which was formed to specifically study legislative issues pertaining to status offenders, completed its initial work with the submission of its legislative recommendations. Prior to the 2000 session, the Task Force recommended redefining status offenders as "children in need of services" along with implementing a pilot intervention project for status offenders. Although both legislative proposals received considerable debate, neither was successful during the 2000 session. In recognition of the need to move forward on the pilot project and continue discussion of needed legislative reforms, the Status Offender Work Group was established as a standing subcommittee of the Juvenile Justice Committee.

Committee Process:

Over the past year, the Juvenile Justice Committee has met on a total of seven occasions and undertaken a comprehensive study of information sharing within the juvenile justice system. Based upon findings that lack of clarity regarding state policy and conflicting statutory mandates on information sharing have become significant impediments to information sharing, the committee agreed to work collaboratively with the Council's Unified Criminal Justice Information System (UCJIS) Committee to study the issue and make recommendations to address statewide concerns.

As context for the study, a comprehensive report was compiled to document all existing statutory requirements along with agency policies and procedures that impact the sharing of juvenile information. The report was distributed to juvenile justice agencies and organizations across the state to enlist broad-based feedback on the report and input into the committee process. Although the report identifies no significant barriers to the sharing of information on juveniles, it is evident that confusion regarding what can be shared, lack of trust, and agency fears regarding misuse of information have resulted in an informal system of information sharing based primarily on relationships rather than policy.

The committee received a presentation on recent research conducted by Eastern Kentucky University pertaining to information sharing on juveniles within the state and reviewed resource materials on computerized information systems established by model states, including Arizona, Missouri and Colorado, that provide access to information for case management and aggregate data for evaluation and planning purposes. Since members agreed that it would be less difficult to focus initially on sharing of data that did not incorporate any individual identifiers, the committee developed a draft definition of "aggregate data."

Since the committee remains in the midst of its study at the present, no recommendations are anticipated in the near future. However, the committee has scheduled a facilitated visioning session to develop a clear vision for the information sharing project and will be sending five members of the committee to an upcoming Juvenile Integrated Information Sharing Workshop in Kansas City, Missouri in September 2002 that is being sponsored by the Office of Juvenile Justice and Delinquency Prevention and the Center for Network Development.

Status Offender Work Group Findings and Recommendations:

Over the past year, the Status Offender Work Group has met on six occasions to review statewide data pertaining to status offenders; conduct research on state laws pertaining to status offenders; received a broad range of presentations from model programs across the state; and attempted to move forward with implementation of a pilot status offender project in Fayette County. Most recently, the work group developed an informational brochure on status offenders for system personnel and is drafting an accompanying piece for parents to be distributed by the Court Designated Workers.

The original status offender pilot project proposed by the work group incorporated a network of collaborative and intensive early intervention programs and services based on a Florida model. Following a referral from the school, Court Designated Worker, family member, Department of Juvenile Justice staff, and/or law enforcement, an array of intensive early intervention services would be provided under contract by a private agency to prevent status offender youth from progressing into the juvenile justice system. The typical array of services would include crisis stabilization, short-term casework, residential options including shelter and foster care, "school escort services," parent training programs, and truancy mediation. Although efforts were made to coordinate a status offender pilot project based on this model in Fayette County using existing agency personnel and resources, the inability to bring key players to the table posed a significant obstacle to implementation.

Based upon its review of data by the Court Designated Worker Office and the Department of Juvenile Justice along with discussions over the past year, the Status Offender Work Group revised its earlier proposal for a status offender pilot project and developed a new series of recommendations to promote early intervention, divert status offender youth from the juvenile justice system, and reduce the number of status offenders being held in detention. The following preliminary recommendations are being reviewed by the work group and will be submitted to the Juvenile Justice Committee and ultimately to the full Council for approval. The recommendations outline the work group's overall approach to status offender youth and identify the key components for implementing status offender pilot projects across the commonwealth:

- (1) The first line of response to status offenders should be community and public services designed to help children and their families. Formal court intervention should occur only after services have not been successful, or if the child's or family's circumstances continue to pose a threat to the child's safety or well-being. In those areas where unique circumstances exist and prosecutorial overrides or judicial orders necessitate a formal court appearance for certain diversion-eligible offenses, CDWs should be encouraged to review all such cases and make individual recommendations to the judge to insure that non-court options have been exhausted. It is further recommended, in accordance with KRS 610.265(4)(c), that "...the court shall determine whether all dispositions other than secure detention have been exhausted or are inappropriate..." prior to ordering the secure detention of a status offender.

- (2) Appropriate and effective resources should be available to and accessed by the Court Designated Worker to permit referrals for status offenders and their families prior to the taking of a complaint. In addition, in those active cases where the child is compliant, but appropriate family support is lacking, prosecutors should be supported in their efforts to pursue educational neglect/dependency and other legal remedies.
- (3) All juvenile justice system representatives, including judges in Juvenile and Family courts, social service workers, prosecutors, service providers, representatives of the defense bar, and school personnel should have training, not only on the legal and statutory issues pertaining to status offenders, but in child development, cultural factors, resources for families, the court's relationship and duties toward social welfare and childcare agencies, and research findings regarding effective interventions. Judges should also be educated regarding the willingness of the CDW Program to accept youth into the program, if the client, for example, fails to show up for an appointment or, as is frequently the case, where the child, at the urging of parents, has mistakenly requested a court appearance.
- (4) In keeping with the above recommendations, the Status Offender Work Group specifically recommends implementation of pilot projects within the Commonwealth to provide early intervention services to status offender youth and their families. The ultimate goal of the pilot projects would focus on diverting these youth from court intervention and preventing them from progressing further into the juvenile justice system. It is anticipated that grant funding could be used to support the pilot projects and that a Request for Proposal (RFP) would be issued to identify the sites. Each project would incorporate the following four components:
 - (a) Collaboration among key players in the juvenile justice system, including the Cabinet for Families and Children/Community-Based Services; the Administrative Office of the Courts (Court Designated Worker Program); the Department of Juvenile Justice; school superintendents, principals and Directors of Pupil Personnel; Family Resource and Youth Service Centers; judges, prosecutors and representatives of the defense bar; local mental health professionals; and private childcare agencies.
 - (b) The Court Designated Worker Program will serve as the initial point of contact for referral.
 - (c) After the CDW diversion conference, using the CDW release of information process, a case management function will be provided through contractual arrangements with private agencies to broker needed services for youth and their families.
 - (d) Data collection and an evaluation component will be required to determine the effectiveness of the early intervention model.

Pending Committee Issues:

- Study of information-sharing within the juvenile justice system
- Status offender data collection, pilot project implementation, and review of definitions of terms in the status offender statutes
- Study of juvenile mental health issues
- Prevention measures
- School safety
- Disproportionate minority confinement
- Improved coordination among state agencies and groups dealing with issues related to juvenile justice

“Development of effective criminal justice policy is rooted in the ability of a jurisdiction to obtain data on how its system operates and the ability to analyze that data and present that data in a meaningful manner.”⁶

LAW ENFORCEMENT ISSUES COMMITTEE

Committee Charge:

The Law Enforcement Committee has been charged with addressing the Council's statutory mandates on both hate crime and gangs. It has also been charged with analyzing rural crime, developing prevention programs, and developing a statewide community policing philosophy.

Prior the 2000 session, the Law Enforcement Committee issued recommendations to expand the existing hate crime statutes to address procedural issues (notice to the defendant) and include a one-level penalty enhancement provision for crimes motivated by hate. Although variations of these recommendations have been incorporated into legislative proposals sponsored during the 2000, 2001 and 2002 sessions, the proposals have made little progress amidst considerable debate regarding the appropriate statutory response to bias-motivated crime.

In November 2001, the Council reconvened the Hate Crime Statistics Work Group to review and monitor data on hate crime reported to law enforcement and to develop a mechanism for collection of anecdotal information on hate incidents in Kentucky. In order to coordinate the efforts of the work group with the Law Enforcement Issues Committee, the Committee Chair agreed to serve as Vice Chair of the work group and serve as the liaison between the two bodies.

As part of its renewed charge, the Hate Crime Statistics Work Group broadened its charge beyond data collection and legislation to include reviewing existing educational programs for youth and raising public awareness about the nature of bias-motivated crime. In January 2002, the work group issued its first annual report on hate crime, entitled *Hate Crime and Hate Incidents in the Commonwealth of Kentucky: A Report of the Hate Crime Statistics Work Group of the Kentucky Criminal Justice Council*. The report combines data from law enforcement, newspaper articles, complaints received by human rights organizations, and anecdotal reports to provide a comprehensive picture of hate crime in the commonwealth and serves to inform both the public and state policy.

As part of its early work, the Law Enforcement Committee issued recommendations to revise and clarify the language in the existing criminal gang statute (KRS 506.140). Specifically the committee recommended adding a definition of the term "criminal gang," making necessary statutory revisions, and repealing KRS 506.130 relating to furtherance of criminal gang activity. These recommendations were incorporated into a legislative proposal that passed during the 2000 session.

Following the 2000 session of the Kentucky General Assembly, the Law Enforcement Issues Committee conducted a survey of its membership to determine priority issues for future study. Based on responses, the Committee identified the following list of topics for study:

- Police officer training/certification
- Alternative community dispositions for youth taken into custody by law enforcement
- Law enforcement response to mentally ill individuals
- Computer crime
- Primary enforcement of seatbelt laws
- Statewide community policing philosophy

Over the past year, the committee has met on a total of seven occasions to address a number of topics including computer crime; alternative community dispositions for youth taken into custody by law enforcement; the law enforcement response to individuals with serious mental illness; racial profiling data analysis; statewide law enforcement training and certification programs; the proposed law enforcement survey of the Embedding Prevention Project; Kentucky's preparedness for terrorist incidents; statewide DUI enforcement; and statewide survey findings on law enforcement use of force and citizen complaint policies.

Committee Process:

Hate Crime:

In preparation for the 2002 session of the Kentucky General Assembly, the Law Enforcement Issues Committee specifically revisited its previous recommendations pertaining to hate crime. In its original study, the Committee identified that while hate crime statutes vary from state to state, common elements can be identified. A significant number of states attach a specific penalty to the offense and allow for civil action against hate crime offenders. While crime victims in Kentucky may, in general, take civil action against offenders, the hate crime statute does not specifically allow civil litigation against hate crime offenders.

The Committee also reviewed the possible implications of the U.S. Supreme Court ruling in *Apprendi vs. New Jersey*, which examined New Jersey's hate crime statute. The Court found that New Jersey's statute was unconstitutional and overturned the defendant's sentence that had been enhanced under the law. Although Kentucky's current statute does not include an enhancement provision, it does place the decision-making process regarding whether or not the crime committed was motivated by hate with the sentencing judge, rather than a jury. In the *Apprendi* ruling, the Court stated that a criminal defendant is entitled to a jury determination that he is guilty of every element of a crime and that the standard must be beyond a reasonable doubt.

Based on its most recent review, the Committee remains concerned as to whether the existing statute sends a clear and strong message that hate crime is unacceptable in our communities since it does not attach a significant criminal penalty to hate crime offenses. With knowledge that hate crime victims are targeted as a result of their race, religion, ethnicity or sexual orientation, the Committee believes that these crimes tear at the very fabric of our society and engender widespread fear among potential victims and across entire communities.

Additionally, the Committee remains concerned regarding the lack of any mechanism for provision of notice to the defendant in the current statute (KRS 532.031) and procedural issues involving both the trial procedure and sentencing phase. Although the proposal sponsored during the 2002 session offered a different approach by narrowing the application of the penalty enhancement provision to lower level offenses that tend to represent the bulk of hate-motivated incidents, legislative concerns remain regarding the implications of enhancing a penalty based upon the determination that the offense was motivated by hate.

Alternative Community Dispositions for Youth taken into Custody by Law Enforcement:

Based upon concerns voiced by law enforcement and survey findings which suggested that law enforcement officers in some parts of the state encounter problems gaining access to the Court Designated Worker and finding appropriate housing, placements or dispositions after a youth has been taken into custody, the Law Enforcement Issues Committee has continued to explore ways to address these concerns.

Over the past year, committee members met with representatives of the Court Designated Worker Program and received a presentation from the Department of Juvenile Justice on the role of Detention Alternatives Coordinators across the state. Of note, the committee learned that the Department of Juvenile Justice had been attempting to implement a model developed by the American Probation and Parole Association for juvenile holdover programs or "receiving" centers where police could drop off youth. Although in-depth training was provided in five sites across the commonwealth to replicate the model, not one site had become operational despite additional technical assistance and follow-up.

The committee also received a presentation regarding a similar drop-off project, the Youth Attendant Program, that was successfully operated by the Lexington YWCA in the late 1980's. Based upon a recommendation discussed at the June 2002 meeting, it may be possible to incorporate the concept of a drop-off center into the pilot projects proposed by the Status Offender Work Group. The Law Enforcement Issues Committee Chair will pursue this possibility with the chairs of the work group and the Juvenile Justice Committee.

Law Enforcement Response to Mentally Ill Individuals:

Based upon recommendations of the Law Enforcement Issues Committee and the Corrections/Community-Based Sanctions Committee, the full Council endorsed most of the recommendations of the Criminal Justice/Behavioral Health Interface Work Group (H.B. 843 Commission) in September 2001. The Council also endorsed three supplemental recommendations offered by the Law Enforcement Issues Committee that specifically addressed the need for law enforcement training in responding to crisis situations involving individuals with serious mental illness.

The committee subsequently received a presentation from a representative of the Kentucky Chapter of the National Alliance for the Mentally Ill (NAMI) regarding proposed curriculum development and statewide training for law enforcement on how to de-escalate situations involving individuals with serious mental illness. With knowledge that training initiatives are underway, the committee will continue to monitor the implementation of these programs to ensure that any new initiatives include viable approaches for law enforcement agencies in rural as well as urban communities across the state.

Statewide DUI Enforcement Study:

In response to a request from Attorney General Ben Chandler in the fall of 2000 that the Criminal Justice Council undertake a statewide study of DUI enforcement, the Council's Executive Committee asked the UCJIS Committee to initiate the study by "mapping" the current DUI enforcement process. As part of this process, the UCJIS Committee identified the points in the process at which criminal history data is available to key players and described the information available to the decision maker and how it is maintained. The UCJIS Committee also identified points in the process at which discretion may be exercised by law enforcement, prosecution or the judiciary.

Upon completion of the first phase of the statewide DUI enforcement study, information compiled by the UCJIS Committee was transmitted to the Law Enforcement Issues Committee for further review and action. Over time, the Law Enforcement Issues Committee has continued its efforts to gather data and information and determine the most feasible plan of action for collecting systemic data on DUI enforcement and possibly conducting survey research at the community level in pilot sites across the commonwealth.

In October 2001, the committee received a data presentation by the Kentucky State Police comparing the number of deaths and fatal collisions involving suspected alcohol involvement during the periods of October 1, 1999 through September 1, 2000 and October 1, 2000 through September 1, 2001. Following discussion of the data, the committee developed a plan to compare data published in the *Herald-Leader* series with county data maintained in the KSP CRASH System. At the present, Council staff is in process of updating the data published by the *Herald-Leader* to determine if the disparities identified in the previous study remain. Staff will then compare the current data to the county-by-county breakdown of suspected alcohol-related fatalities and collisions from the CRASH System to determine if any correlations exist.

Committee Findings and Recommendations:

While it is likely that the Law Enforcement Issues Committee will develop programmatic recommendations in the coming months to address some of the topics listed above, these topics remain under deliberation at the present time.

Computer Crime:

Over the past two years, the Law Enforcement Issues Committee has devoted time to studying and scheduling presentations related to computer crime. During 2000, the Committee received presentations from the Electronic Crime Section of the Kentucky State Police and the Regional Electronic Computer Crime Intelligence Unit

(RECI) located in the Hamilton County, Ohio, Sheriff's Office. Based on recognition of the rapidly increasing threat posed by computer crime and the limited statewide expertise and investigative capacity, the Committee has focused its attention on identifying the best approach for ensuring that law enforcement agencies across the state have ready access to investigative resources in cases involving computer and hi-tech crime.

In September 2001, the Criminal Justice Council co-hosted training for law enforcement and prosecutors on "Computer-Aided Crimes Against Children." The training was co-hosted by the Kentucky Commonwealth's Attorneys Association and presented by the National Center for Missing and Exploited Children. As an outcome of the training, renewed interest was expressed for state participation in the federal Internet Crimes Against Children (ICAC) Task Force Program. At the October 2001 committee meeting, members discussed concerns regarding the lack of standardized procedures for handling evidence; the lack of training standards or required qualifications for officers conducting these investigations; and the need to develop statewide investigative and forensic capacities for computer crime.

With knowledge that the Kentucky State Police was in process of considering its role in regard to computer crime investigations and forensics, the committee deferred taking action to await the KSP proposal. Upon receipt of feedback from the Kentucky State Police at the December 2001 meeting, the committee's draft recommendations were revised to reflect the proposed role of KSP and to support the need for updating the state's existing computer crime statutes. The recommendations were unanimously approved as revised.

In March 2002, the Law Enforcement Issues Committee submitted the following six recommendations to the full Criminal Justice Council. All six recommendations were unanimously approved.

- (1) Patrol officers and detectives need basic information about handling computers and other electronic devices as evidence in investigations. The Department of Criminal Justice Training and the Kentucky State Police should distribute information and should develop recruit and in-service training to meet this need as soon as possible.
- (2) Prosecutors, judges, and similar officials also need basic information about computer-related crimes, computer-related evidence, and adjudication of computer-related cases. Appropriate agencies and associations should develop and deliver information and training to these officials as soon as possible.
- (3) When computers and other electronic devices are seized as evidence, they must be subjected to forensic examination. The Kentucky State Police should enlarge its current capacity to provide this type of forensic examination for the benefit of state and local agencies as soon as possible.
- (4) Computer crime investigation, as contrasted with mere seizure of computer evidence, requires advanced skills, training, and specialization. Most law enforcement agencies in Kentucky cannot afford such a degree of specialization. Therefore, the Kentucky State Police should take the lead in establishing a statewide network or alliance of federal, state, and local computer-crime investigators, coordinated by a state-level coordinating board made up of federal, state, and local officials. To assist those many local agencies that are not able to create a computer-crime investigation capability, the Kentucky State Police should train additional state police personnel so that it has qualified computer crime investigators at each state police post as soon as possible. Funding for needed personnel, equipment, and training at the state and local level should be sought from grants through the Justice Cabinet and through the General Assembly.

- (5) In order to assure that investigative and forensic personnel are adequately trained and to promote consistency in statewide law enforcement practices pertaining to computer crime, the Kentucky Justice Cabinet, working with federal, state, and local officials, should develop a series of operational and program standards as soon as possible to include the following: training/qualifications of personnel; case management; record keeping; investigative procedures; evidence protocols; and information sharing.
- (6) During the 2002 session, the General Assembly should update Kentucky's statutes related to computer crime, as they are over 20 years old. In particular, KRS 434.840, 434.845, and 434.850 need to be updated as at least one section has been ruled unconstitutionally vague.

Pending Committee Issues:

- Statewide DUI enforcement study
- Alternative community dispositions for youth taken into custody by law enforcement
- Review of statutory mandates for law enforcement training and departmental policy development
- Law enforcement response to mentally ill individuals
- Computer crime
- Racial profiling data analysis/reporting
- Development of comprehensive community gang prevention strategies
- Rural crime and crime prevention
- Statewide community policing philosophy

“More recent definitions of comprehensive criminal justice planning have taken on the meaning of planning as coordination. This recognizes that fragmentation is a fact in the criminal justice system and that decision-making is decentralized. Central planning as a comprehensive model tends to be associated with total control, and this runs counter to the separation of powers doctrine.”⁷

PENAL CODE/SENTENCING COMMITTEE

Committee Charge:

Following its creation in 1999, the Penal Code/Sentencing Committee initially focused its attention on reviewing and making a recommendation in response to the statutory mandate to study the costs and benefits to the corrections system and to public safety by the creation of a Class E felony for certain crimes against property. Although the committee did not recommend creation of a Class E felony at that time, it reserved the possibility of future consideration. The Committee also identified a number of inconsistencies in current sentencing provisions and discussed a range of issues related to the collection of court costs, fines and add-on fees.

Based on the recommendations of the Pre-Payable Fines Work Group, established to study and make recommendations to improve the consistency and clarity of statutory language governing pre-payable fines, legislation was enacted during the 2000 General Assembly. The legislation established a uniform mechanism for assessment and collection of these fines across the commonwealth. Legislation was also proposed to establish a statewide process for the collection of court costs, fines and add-on fees. Although unsuccessful in 2000, a Court Costs Work Group was established under the Penal Code/Sentencing Committee in 2001 to review and revise the previous proposal to consolidate court costs and to allocate funds on a percentage basis. With all of the key stakeholders participating in the process, the Court Costs Work Group was successful in revising the original proposal and passing the court costs legislation during the 2002 session.

As the third installment in its financial series, the Penal Code/Sentencing Committee is in process of forming a Restitution Work Group to review and develop recommendations to streamline and standardize statewide procedures for effective assessment, collection and distribution of restitution. It is anticipated that recommendations will be forthcoming from this work group in preparation for the 2003 session of the Kentucky General Assembly.

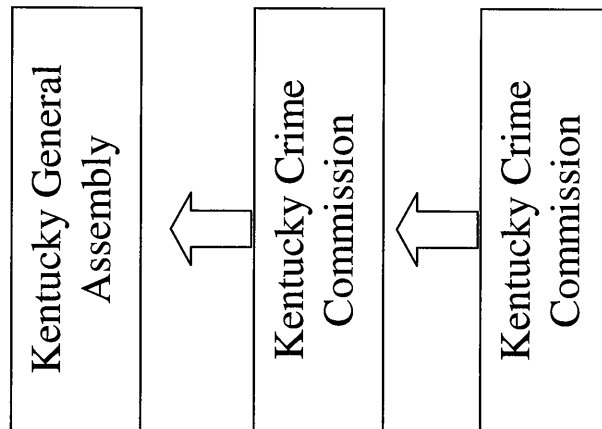
Committee Process:

Following the 2000 session, the Penal Code/Sentencing Committee shifted its focus to its primary assignment and statutory mandate under KRS 15A.040—studying and making recommendations on the penal code. To provide important background information for the project, the committee gathered historical accounts of the development of the existing code, which was enacted by the Kentucky General Assembly in 1975. The committee also received a presentation from Professor Robert G. Lawson, an integral figure in the development of Kentucky's model penal code and member of the original drafting staff. Based on this information, the Committee established a committee structure and penal code reform process similar to the 1968 process.

The Penal Code/Sentencing Committee drafted a set of principles that will act as guideposts in addressing the most problematic areas in the current penal code such as placement of criminal offenses within the code and standardization of mental states and penalty scales. As part of the process, broad-based research was conducted to collect information on state model codes; establish a database on all changes enacted in the code since 1975; and distribute a questionnaire to constituency groups across the state to enlist input on problematic, ambiguous or inconsistent provisions within the current code. Questionnaires were mailed to the Prosecutor's Advisory Council; Commonwealth's Attorneys Association; County Attorneys Association; Criminal Appellate Division (Office of the Attorney General); Department of Public Advocacy; Kentucky Association of Criminal Defense Lawyers; Circuit Court Judges Association; District Court Judges Association; and victim advocates and related associations.

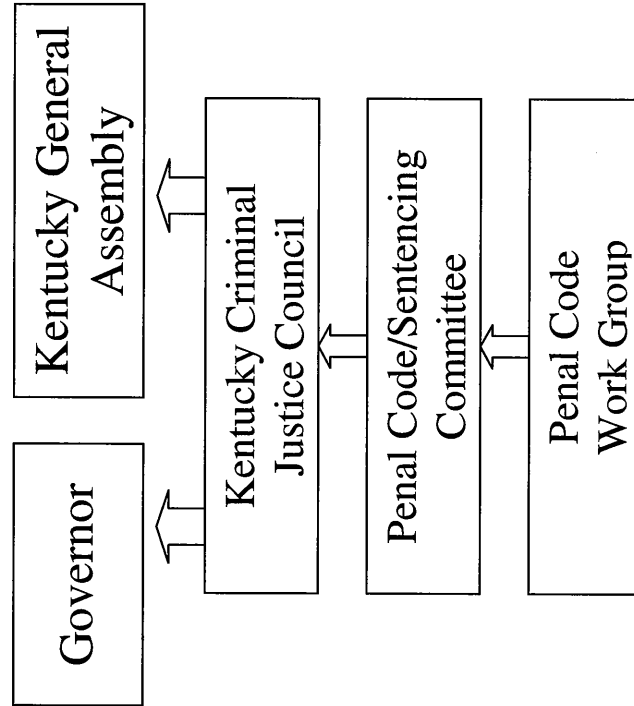
Kentucky Criminal Justice Council Structure/Process for Penal Code Reform

1968 Process



*Drafting Staff: Robert G. Lawson, Kathleen F. Brickey, Carol Ousley, Jr. and Paul K. Murphy
LRC Delegate: Norman W. Lawson, Jr.*

2000 Process



Drafting Staff: Professor Paul Robinson and Professor Les

In preparation for undertaking the Penal Code Revision Project, Council staff made presentations to the District and Circuit Judicial Colleges and key policymakers and legislative leaders were briefed. In October 2000, a joint meeting of the Penal Code/Sentencing Committee and the Interim Joint Committee on Judiciary was held and members received a presentation by Professor Paul Robinson, Northwestern University College of Law. Professor Robinson, a nationally recognized expert in state penal codes, co-authored a national study on American criminal codes and currently serves as Reporter for the Illinois Criminal Code Rewrite and Reform Commission.

In his presentation, Professor Robinson noted that the goal of the penal code reform process should be to develop a fully integrated code that sets forth offenses and punishments in a simple and straightforward manner. With knowledge that 27 years have passed since the enactment of Kentucky's original code, it was noted that there have been numerous amendments to the criminal statutes, many of which are not in the penal code and many of which can only be fully understood through case law. As a result, the penal code has diverged from its original intent and has become cumbersome and disorganized.

As an outcome of the October 2000 meeting, the Penal Code/Sentencing Committee pursued grant funds to support a contract with Professor Robinson to serve as Reporter for Kentucky's efforts in penal code reform. The initial contract was established in January 2000 and staff began the process of assembling an extensive array of background materials. To initiate the revision process, the Penal Code Work Group was established under the Penal Code/Sentencing Committee and charged with the following three objectives:

- Review of penal code research and resource materials from a broad range of legal perspectives
- Identify issues to be addressed and options for consideration
- Organize/package issues and options for presentation to the Penal Code/Sentencing Committee

As its first task, the Penal Code/Sentencing Committee worked with Professor Robinson and adapted his process for penal code revision for use by Kentucky. The penal code revision process entails the compilation of comprehensive background materials for each chapter/subchapter of the code; preparation of initial drafts of the general and special part provisions by Professor Robinson; compilation of the draft official commentary to accompany each section by Professor Les Abramson; and review, comment, and discussion by members of the Penal Code Work Group resulting in an annotated draft of the general and special part provisions and the draft official commentary.

Over the past year, the Penal Code Work Group, which includes professors from the three state law schools, a victim advocate and representatives of prosecution, the judiciary and the defense bar, has met on two occasions to discuss the process and begin its review of drafts prepared by Professor Robinson. Based on information contained within the background files for the general and special part provisions of the code, Professor Robinson developed preliminary drafts which have subsequently been reviewed and refined by the Council's three law professors and distributed to members of the Penal Code Work Group for review. In keeping with the review process, a draft of the accompanying official commentary has been circulated with the general and special part provision drafts.

At the present, the Penal Code Work Group is preparing to discuss the annotated draft of the general part provisions and will soon begin its review of the special part provisions. Upon completion of the review process, it is anticipated that the final annotated drafts of the general and special part provisions of the code along with the official commentary will be published as a resource document. This document will then be utilized by the Penal Code Work Group as the foundation for identifying areas of consensus for future legislative action.

Although the working stage of the process is currently underway, it is anticipated that penal code reform will require a long-term process and broad-based input from across the state. The Penal Code Work Group is hoping to have the resource document and consensus recommendations for legislative action prepared in time for consideration during the 2003 session of the Kentucky General Assembly. Upon completion of the Penal Code Revision Project, the Council plans to work closely with the membership of the House and Senate Judiciary Committees to facilitate consideration of the proposed legislative recommendations.

Finally, in order to facilitate the maximal availability of information regarding the status of the penal code reform project to all varied interest groups, the Criminal Justice Council is publishing a newsletter, entitled the "Penal Code Revision Project Update," to keep interested individuals and organizations apprised of the status of the project. The first issue of the newsletter was issued in September 2001 and it is anticipated that the second edition will be published in July 2002.

Committee Findings and Recommendations:

Although the Penal Code/Sentencing Committee has not developed any legislative or programmatic recommendations at this time, it is hoped that consensus recommendations for penal code reform and recommendations developed by the Restitution Work Group will be forthcoming prior to the 2003 session.

Pending Committee Items:

- Development of a legislative proposal for streamlining and standardizing the assessment, collection, and distribution of restitution to crime victims
- Penal Code reform
- Structured sentencing and judge sentencing

“Reactive decisionmaking administers first aid. It is not designed to produce lasting solutions. In fact, the amount of time and energy expended on reactive decisionmaking is one measure of an organization’s inability to anticipate and affect its own future.”⁸

UNIFIED CRIMINAL JUSTICE INFORMATION SYSTEM COMMITTEE

Committee Charge:

Based on the statutory mandate in KRS 17.131, the UCJIS Committee is charged with designing, implementing and maintaining a Unified Criminal Justice Information System. Design and implementation of this system represents an extremely complex task—a task that not only requires the creative application of significant hardware and software solutions, but equally important, one that requires the ability to develop a common language among the databases of the various criminal justice agencies. It is a task analogous to building a house in that a solid foundation must be laid before erecting the framework.

Committee Process:

Since the passage of the Governor's Crime Bill (H.B. 455) in 1998, considerable progress has been made in the effort to integrate criminal justice systems throughout the Commonwealth. Although this is a complex, long-term effort, the Unified Criminal Justice Information System (UCJIS) Committee is currently in the process of replacing the antiquated criminal history system operated by the Kentucky State Police through its new Computerized Criminal History (CCH) Project. In addition, UCJIS continues to support the local demonstration projects that are already transferring data from in-car computers to jails and courts using state-of-the-art wireless technology as well as coordinating wireless data pilots to identify the most reliable, efficient, and cost-effective wireless data communication infrastructure available in the commonwealth.

The legislative mandate that launched the UCJIS program is a key enabler in the complex effort to integrate systems and share information across organizational and jurisdictional boundaries. While nearly every state has an initiative similar to the UCJIS project, Kentucky has been at the forefront and received national recognition for the work of its UCJIS Committee. Through its accomplishments and participation in a number of national UCJIS forums, Kentucky has raised its profile and is currently well positioned to receive future federal funding for UCJIS implementation. During the past year, Kentucky was one of only 26 states to receive a National Governor's Association Technology Initiative Grant to develop a statewide automated warrants system.

Based upon the UCJIS Strategic Plan, which was completed in 2001, Science Applications International Corporation (SAIC), PriceWaterhouse Coopers, and Intelligent Document Management Solutions (IDMS) developed a multi-phased plan to implement a criminal justice information system solution in Kentucky. Key items from the plan included a Warrants Process White Paper, a Booking Process White Paper, and a Criminal History System Requirements Specification Document.

In 1999, six issue-specific work groups were established under the UCJIS Committee to deal with issues related to technology, legal policy, training and public relations, funding, automated warrants, and wireless communications functions. The work groups have continued to meet on an as-needed basis and present progress reports to the full UCJIS Committee. In the last year, the Communications Work Group was merged with the Wireless Steering Committee of the Governor's Office for Technology (GOT).

Along with the development of a implementation plan, the UCJIS Committee has worked to maintain a viable committee structure, supported local demonstration projects, initiated local wireless projects, and continued its emphasis on the Kentucky UCJIS standards. These standards represent the agreement of individual agencies and branches of government to adhere to basic structural requirements in implementation of a statewide UCJIS

system. Perhaps the most significant accomplishment related to standards is that the state UCIJS standards have been adopted by a number of local agencies. Since local agency information is the basis for the data that must be integrated into the various agency systems, their participation is not simply valuable, it is essential. To date, standards have been developed to address a number of applications including:

- Electronic or e-citation
- Commonwealth National Incident Based Reporting System or NIBRS standard
- Commonwealth data definition
- Standardized XML Interstate Rap sheet
- Legal XML group's XML court filing standard
- American Association of Motor Vehicle Administrators (AAMVA) driver's license standard
- Agreement regarding no proprietary databases without justification
- Any applicable federal standards

Based on these efforts, Kentucky has been able to influence the development of standards at the national level, which will facilitate the ability of our state systems to be integrated into the federal architecture and vice versa.

Committee Recommendations

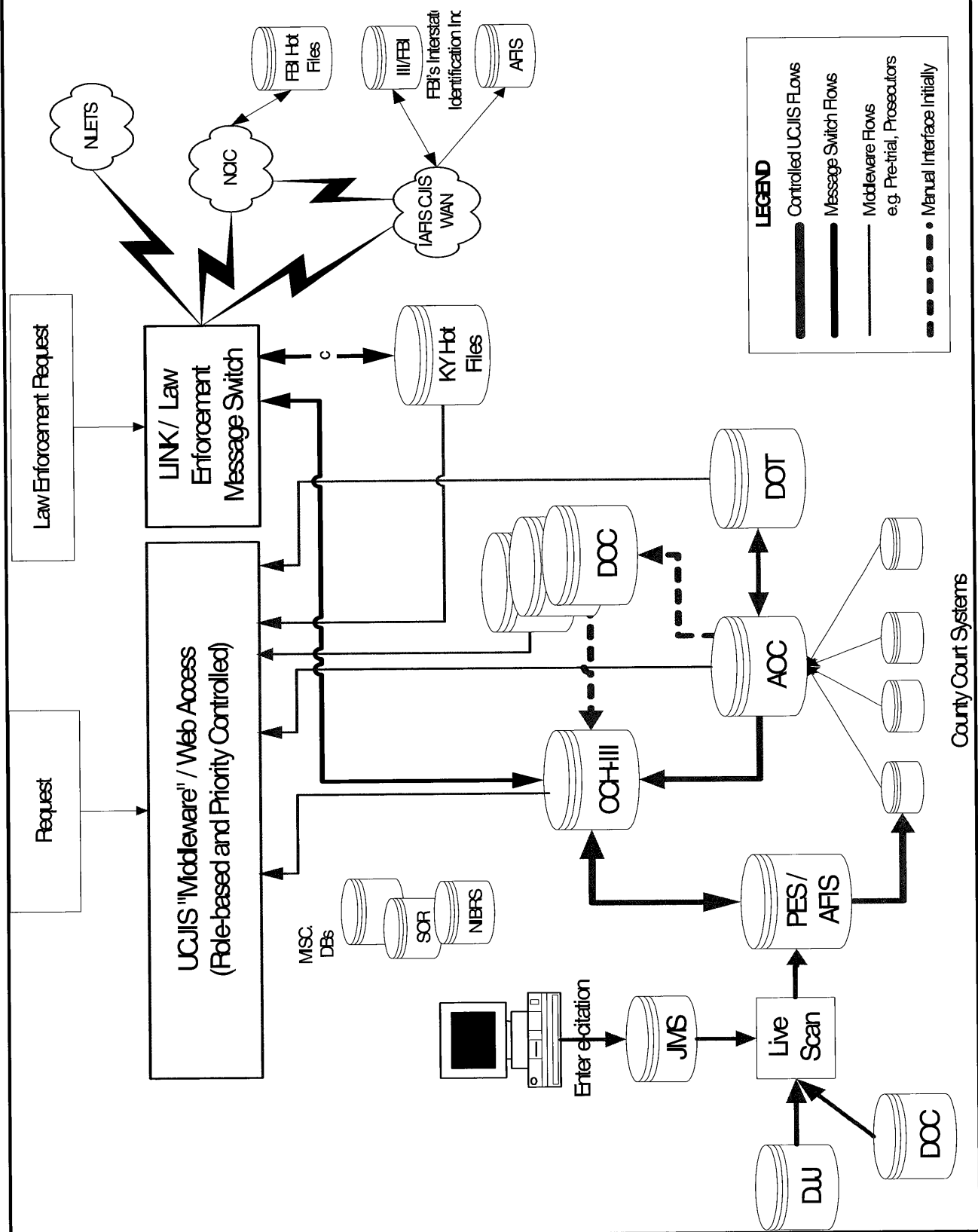
Although the UCJIS Committee has no legislative or programmatic recommendations at this time, a budget request was compiled and submitted as part of the 2002-2004 state budget proposal, however, the status of that request remains unclear at the present.

In addition to the UCJIS milestones described in the preceding sections, a brief summary of ongoing projects is highlighted in the following chart, which includes both accomplishments to date and future action:

<i>Project Name</i>	<i>Accomplishments</i>	<i>Next Steps</i>
UCJIS Project	<ul style="list-style-type: none"> • UCJIS Implementation Plan • Warrants White Paper • Computerized Criminal History (CCH) Project • Wireless Data Pilot Projects • Website Upgrade 	<ul style="list-style-type: none"> • Complete CCH Implementation • Begin Arrest Warrant Pilots • Assess Wireless Data Feasibility • Search for Continued Funding
Computerized Criminal History (CCH) Project	<ul style="list-style-type: none"> • Signed contract with SAIC for Phases 2 and 3 of a 7 phase Project • Approved the Project Plan, Data Conversion Plan, and Acceptance Testing Plan • Established KSP CCH Project Manager • Secured Development and Testing Hardware/Software 	<ul style="list-style-type: none"> • Approve final software system design • Database conversion from CHRIS to CCH • Training of KSP staff • Implementation of new CCH system • Secure funding for Phases 4 through 7

<i>Project Name</i>	<i>Accomplishments</i>	<i>Next Steps</i>
Booking Process	<ul style="list-style-type: none"> • LiveScan Units deployed to all detention centers • Jailers and Corrections staff trained 	<ul style="list-style-type: none"> • Implement PES system as interface between LiveScan and other criminal justice information systems (see figure 1)
Demonstration Project (Louisville/Jefferson County)	<ul style="list-style-type: none"> • Record Management System in beta testing • 200+ in-car computers implemented • Fiber connectivity to all participating agencies nearly complete 	<ul style="list-style-type: none"> • Records Management System full implementation allowing 10 to 15 agencies access to data • E-citation issues to be resolved
Wireless Data Pilot Projects	<ul style="list-style-type: none"> • Identified and implemented a variety of wireless technologies in at least 6 sites throughout the state to test mobile data computers (MDCs) ability to send and receive data • Participating agencies include KSP, KVE, Sheriffs, and Local Law Enforcement agencies 	<ul style="list-style-type: none"> • Analyze pilot site evaluations • Write RFP for wireless infrastructure solution
Record Management System/Computer Aided Dispatch/Mobile Data Computer Statewide Solution	<ul style="list-style-type: none"> • Requirements gathered through responses to RFI, as well as state and local input • KSP released RFP in May 2002 	<ul style="list-style-type: none"> • Evaluate RFP responses and select statewide software vendor • Release software integration SASR
Digital Drivers License	<ul style="list-style-type: none"> • Implemented statewide in March 2002 	<ul style="list-style-type: none"> • Build on opportunities from the technology
Warrants	<ul style="list-style-type: none"> • Warrants White Paper Approved • Grant funding for Warrant Pilots secured 	<ul style="list-style-type: none"> • Warrants Workgroup analyzing pilot proposals • Procure statewide warrants database • Establish method of connectivity between AFIS and LINK for warrant search during booking process

Figure 1—Diagram of Proposed UCJIS Architecture

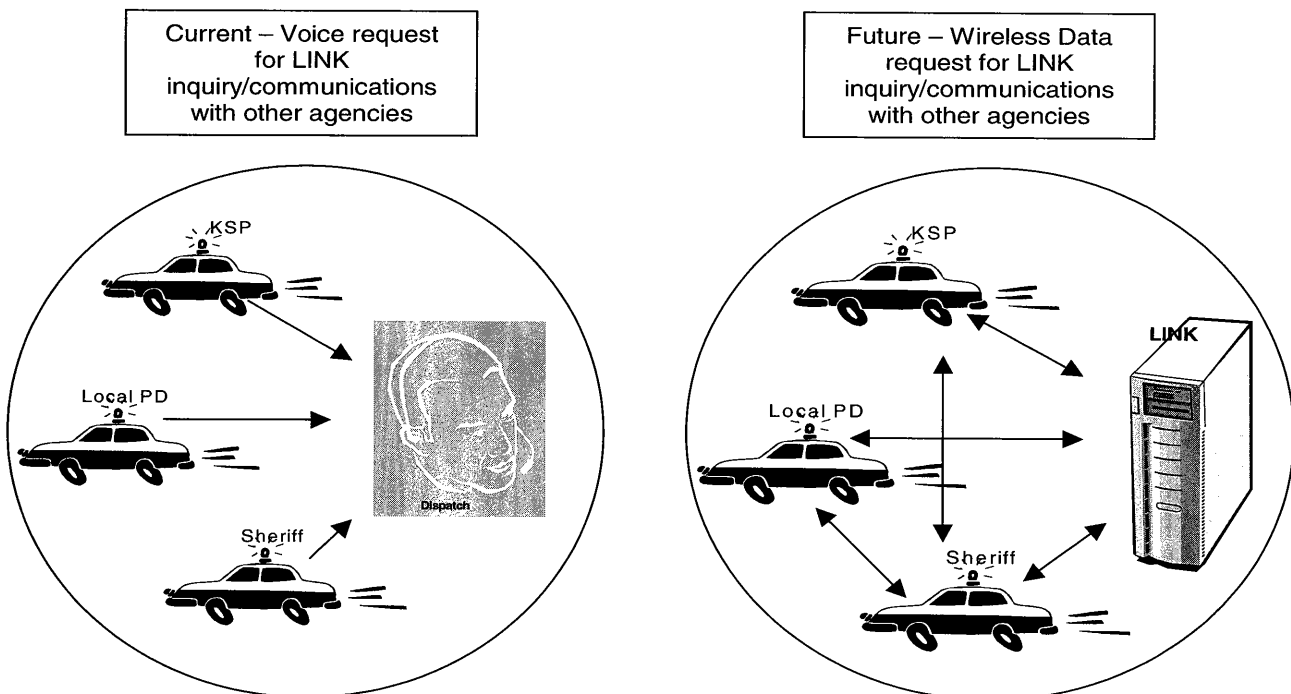


Kentucky's Wireless Data Pilots

Today in Kentucky, law enforcement and public safety agencies are hampered by the inability to transmit wireless data. State and local law enforcement and public safety agencies must use a dispatcher to relay information from the field. Access to wireless data will dramatically improve communication between agencies and increase the timeliness of information exchange with the officer or public safety official in the field, thereby increasing public and officer safety. A key purpose of these pilots is to identify the most reliable, efficient, and cost effective wireless data communication infrastructure(s) available to the commonwealth. Lessons learned from these pilots will assist us in writing a comprehensive RFP for the most robust and cost effective wireless data solution for the commonwealth. Each pilot tests a different technical solution for transmitting and receiving wireless data.

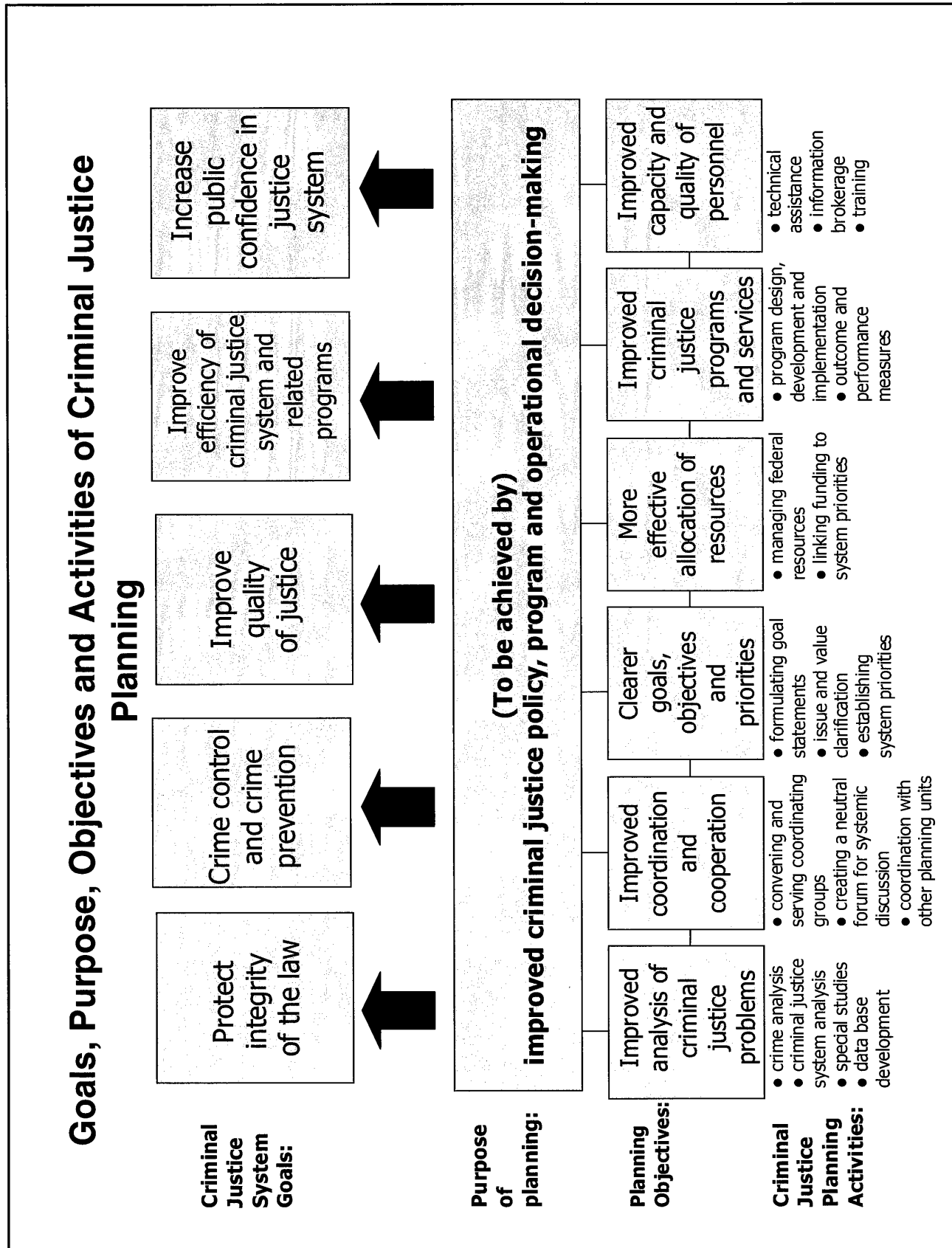
When an officer needs to check the background of an individual or the status of a vehicle, the request is relayed by radio to a dispatcher. A dispatcher may have twenty or more law enforcement units to coordinate at one time, not to mention, EMS units. A bottleneck occurs when the dispatcher has to process records check requests from multiple officers as well as dispatch emergency vehicles. As a result, only those queries critical to an officer's safety are run. A wireless data network allows the law enforcement officer to run checks on license plates, drivers' licenses, and warrants without involving the dispatcher. Consequently, use of this network allows the officer to make substantially more checks and frees the dispatcher to perform more proactive safety related duties such as dispatching fire and EMS units.

The wireless data pilots also allow officers to send messages (similar to instant messaging) and e-mail between officers and agencies involved in the same pilot. Because each pilot uses a different wireless and software solution, the participants can communicate with others within their pilot, but not with those outside of their pilot. Although the value of these pilots is the knowledge we will acquire regarding the best wireless data solution for the commonwealth, the ability to have communications between disparate systems would be optimal as well. The diagram below depicts the current communications environment for law enforcement located in the same area and the future with wireless data available in each unit.



APPENDICES

APPENDIX: A



APPENDIX B:

KENTUCKY CRIMINAL JUSTICE COUNCIL SUMMARY OF 2002 RECOMMENDATIONS

Corrections/Community-Based Sanctions Committee*:

Parole Decision Making

- (1) The Corrections/Community-Based Sanctions Committee supports retention of parole as a significant release mechanism.
- (2) The Corrections/Community-Based Sanctions Committee recommends the allocation of resources for data collection and research on the parole decision making process as a mechanism for modification and improvement of practices.
- (3) The Corrections/Community-Based Sanctions Committee is aware that the quality of a parole system is based on good information and structured decision making and supports the recent Parole Board initiative to develop objective parole guidelines and a risk assessment instrument and recommends that necessary resources be provided to permit full implementation.
- (4) The Corrections/Community-Based Sanctions Committee supports the concept of full victim participation in the parole process and recommends that the Board identify obstacles to victim participation and work toward their resolution.
- (5) The Corrections/Community-Based Sanctions Committee reiterates its support for the modification of the Kentucky State Corrections Commission and affirms the importance of the parole decision making process being part of the strategic plan created by the Commission.

Organizational Structure

- (6) The Corrections/Community-Based Sanctions Committee affirms that the Parole Board should function as an autonomous and independent entity.
- (7) The Corrections/Community-Based Sanctions Committee is aware that Kentucky is paying significant less to Parole Board members than its surrounding states and the national average, and recommends increased compensation for Parole Board members in the Commonwealth.
- (8) The Corrections/Community-Based Sanctions Committee recognizes the importance of initial and ongoing training of Parole Board members. The Committee recommends that the current training process be reevaluated and resources dedicated to expand training opportunities available to members of the board.

- (9) With knowledge that it takes Parole Board members a considerable length of time to become familiar with the parole process and comfortable with the decision making role, the Corrections/Community-Based Sanctions Committee recommends that consideration be given to changing the constitutional provision to extend the term of board members beyond four years.

Parole Supervision

- (10) The Corrections/Community-Based Sanctions Committee encourages the use of graduated sanctions on a case-by-case basis in responding to technical parole violations.
- (11) As previously recommended in 2001, the Corrections/Community-Based Sanctions Committee remains concerned regarding the caseloads of officers working in the community and recommends that funding be significantly increased to raise salaries for probation and parole officers, permit lower caseloads through hiring of new personnel, and encourage expansion of specialized treatment options.
- (12) Based on the fact that over 95% of offenders will be released at some point and that offenders who serve out will be released without supervision, the Corrections/Community-Based Sanctions Committee recognizes the importance of transitional release planning and re-entry programs and recommends that resources be made available for implementation.
- (13) The Corrections/Community-Based Sanctions Committee supports the role of the faith-based and restorative justice communities in the process of offender re-entry and recommends that these communities collaborate with the Department of Corrections in these efforts.

Public/System Education

- (14) The Corrections/Community-Based Sanctions Committee recommends that the Parole Board, in conjunction with the Justice Cabinet Public Information Officers, develop a comprehensive plan for educating victims, offenders, system professionals, and the public to increase understanding of the parole process and the operation of the Parole Board.
- (15) Based on awareness of difficulties experienced by Offender Information Services, Kentucky Department of Corrections, in calculating sentence length due to variations in court orders, the Corrections/Community-Based Sanctions Committee recommends that a collaborative effort be initiated with the Administrative Office of the Courts to include information on sentence calculations in existing training and educational programs for members of the judiciary.
- (16) The Corrections/Community-Based Sanctions Committee recommends that the Restitution Work Group of the Penal Code/Sentencing Committee explore obstacles and solutions to the determination, judicial order, collection and distribution of restitution.
- (17) Because sufficient resources for substance abuse treatment are lacking in both the institution and in the community, the Corrections/Community-Based Sanctions Committee recommends expansion of substance abuse treatment programs for offenders in the institution, on probation, and on parole.

*Although the recommendations of the Corrections/Community-Based Sanctions Committee have been presented to the full Council, they remain preliminary pending completion of a formal vote in September 2002.

Juvenile Justice Committee/Status Offender Work Group*:

- (18) The first line of response to status offenders should be community and public services designed to help children and their families. Formal court intervention should occur only after services have not been successful, or if the child's or family's circumstances continue to pose a threat to the child's safety or well-being. In those areas where unique circumstances exist and prosecutorial overrides or judicial orders necessitate a formal court appearance for certain diversion-eligible offenses, CDWs should be encouraged to review all such cases and make individual recommendations to the judge to insure that non-court options have been exhausted. It is further recommended, in accordance with KRS 610.265(4)(c), that "...the court shall determine whether all dispositions other than secure detention have been exhausted or are inappropriate..." prior to ordering the secure detention of a status offender.
- (19) Appropriate and effective resources should be available to and accessed by the Court Designated Worker to permit referrals for status offenders and their families prior to the taking of a complaint. In addition, in those active cases where the child is compliant, but appropriate family support is lacking, prosecutors should be supported in their efforts to pursue educational neglect/dependency and other legal remedies.
- (20) All juvenile justice system representatives, including judges in Juvenile and Family courts, social service workers, prosecutors, service providers, representatives of the defense bar, and school personnel should have training, not only on the legal and statutory issues pertaining to status offenders, but in child development, cultural factors, resources for families, the court's relationship and duties toward social welfare and childcare agencies, and research findings regarding effective interventions. Judges should also be educated regarding the willingness of the CDW Program to accept youth into the program, if the client, for example, fails to show up for an appointment or, as is frequently the case, where the child, at the urging of parents, has mistakenly requested a court appearance.
 - (a) Collaboration among key players in the juvenile justice system, including the Cabinet for Families and Children/Community-Based Services; the Administrative Office of the Courts (Court Designated Worker Program); the Department of Juvenile Justice; school superintendents, principals and Directors of Pupil Personnel; Family Resource and Youth Service Centers; judges, prosecutors and representatives of the defense bar; local mental health professionals; and private childcare agencies.
 - (b) The Court Designated Worker Program will serve as the initial point of contact for referral.
 - (c) After the CDW diversion conference, using the CDW release of information process, a case management function will be provided through contractual arrangements with private agencies to broker needed services for youth and their families.
 - (d) Data collection and an evaluation component will be required to determine the effectiveness of the early intervention model.

*The recommendations of the Status Offender Work Group have been approved at the work group level and will be submitted to the Juvenile Justice Committee and ultimately to the full Council for approval in September 2002.

Computer Crime

- (22) Patrol officers and detectives need basic information about handling computers and other electronic devices as evidence in investigations. The Department of Criminal Justice Training and the Kentucky State Police should distribute information and should develop recruit and in-service training to meet this need as soon as possible.
- (23) Prosecutors, judges, and similar officials also need basic information about computer-related crimes, computer-related evidence, and adjudication of computer-related cases. Appropriate agencies and associations should develop and deliver information and training to these officials as soon as possible.
- (24) When computers and other electronic devices are seized as evidence, they must be subjected to forensic examination. The Kentucky State Police should enlarge its current capacity to provide this type of forensic examination for the benefit of state and local agencies as soon as possible.
- (25) Computer crime investigation, as contrasted with mere seizure of computer evidence, requires advanced skills, training, and specialization. Most law enforcement agencies in Kentucky cannot afford such a degree of specialization. Therefore, the Kentucky State Police should take the lead in establishing a statewide network or alliance of federal, state, and local computer-crime investigators, coordinated by a state-level coordinating board made up of federal, state, and local officials. To assist those many local agencies that are not able to create a computer-crime investigation capability, the Kentucky State Police should train additional state police personnel so that it has qualified computer crime investigators at each state police post as soon as possible. Funding for needed personnel, equipment, and training at the state and local level should be sought from grants through the Justice Cabinet and through the General Assembly.
- (26) In order to assure that investigative and forensic personnel are adequately trained and to promote consistency in statewide law enforcement practices pertaining to computer crime, the Kentucky Justice Cabinet, working with federal, state, and local officials, should develop a series of operational and program standards as soon as possible to include the following: training/qualifications of personnel; case management; record keeping; investigative procedures; evidence protocols; and information sharing.
- (27) During the 2002 session, the General Assembly should update Kentucky's statutes related to computer crime, as they are over 20 years old. In particular, KRS 434.840, 434.845, and 434.850 need to be updated as at least one section has been ruled unconstitutionally vague.

APPENDIX C:

KENTUCKY CRIMINAL JUSTICE COUNCIL SUMMARY OF ENACTED LEGISLATION (2000-2002)

Year	Bill#	Sponsor	Provisions
2000	HB 86	Rep. Greg Stumbo	Reorg.—Created Office of the Kentucky Criminal Justice Council in Justice Cabinet
2000	HB 89	Rep. Greg Stumbo	Reorg.—Added Chief Information Officer to Council Membership
2000	HB 540	Rep. Jesse Crenshaw	Transferred SAC from Office of the Attorney General to Justice Cabinet
2000	HB 919	Rep. Rob Wilkey	Uniform Collection of Pre-Payable Fines
2000	SB 223	Sen. Gerald Neal	Defined “criminal gang” and “continuing pattern of criminal activity”
2000	SB 293	Sen. David Williams	Drug Strategy Committee Recommendation/Creation of KY-ASAP
2000			UCJIS Budgetary Appropriation of \$4.85M
2001	HB 281	Rep. Jesse Crenshaw	Restoration of Civil Rights for Eligible Felony Offenders
2002	HB 452	Rep. Rob Wilkey	Consolidation of Court Costs and Allocation by Percentage
2002			UCJIS Capital Budget Request (Pending)

SUMMARY OF LEGISLATIVE ENDORSEMENTS

2000	SB 256	Sen. Robert Stivers	Added Commissioners of DJJ, DOCJT, and DOC to membership of the Kentucky Criminal Justice Council
2000			Funding for Juvenile Delinquency Prevention Councils
2002	HB 144	Rep. Charles Geveden	DJJ legislation which provided for privileged communication in juvenile sex offender treatment; defined “juvenile sex offender assessment” and “mentally retarded;” and extended DJJ jurisdiction beyond age 18 for Youthful Offenders responding to treatment
2002	HB 146	Rep. Charles Geveden	DJJ legislation pertaining to right to counsel
2002	HB 193	Rep. Steve Riggs	Amended existing computer crime statutes
2002	HB 4	Rep. Brent Yonts	Testing/preservation of DNA evidence in capital cases

KENTUCKY CRIMINAL JUSTICE COUNCIL SUMMARY OF SUCCESSFUL RECOMMENDATIONS (2000-2002)

1999 Interim Report

- Recommendation for no action following mandated study of Class E felony classification.
- Recommendation not to proceed with a sexually violent predator civil commitment law, but to give strong consideration to a range of criminal justice system alternatives including additional treatment; improved tracking of offenders; extension of the conditional discharge period; closer supervision; development of a comprehensive statewide policy on sex offenders; public education; and full funding of criminal justice alternatives to civil commitment.
- Recommendation not to pursue concept of decriminalizing status offenders.
- Recommendation to make no changes in the language of the Juvenile Code to make it more consistent with the criminal code.
- Funding for a statewide baseline study on disproportionate minority confinement in the Kentucky juvenile justice system.
- Expansion of duties of Juvenile Delinquency Prevention Councils to disseminate information and serve as a clearinghouse for grant information.
- Recommendation to conduct a comprehensive study of the substantive criminal law (including drug offenses) with the goal of presenting future legislative recommendations.
- Amendment to KRS 218A relating to manufacturing of methamphetamine to establish a penalty for possession of precursor chemicals.

2001 Interim Report

- Recommendation that statewide efforts in prevention, early intervention and treatment for child victims of sexual abuse should remain a priority for the commonwealth.
- Council endorsement and support for DMHMR contract with the National Alliance for the Mentally Ill to conduct a statewide training needs assessment, develop a training curriculum, and coordinate cross-systems training events.

SUMMARY OF PENDING RECOMMENDATIONS

1999 Interim Report

- Amendment of Kentucky's hate crime statute (KRS 532.031) to include a penalty enhancement provision.
- Unless mandated by another statute, KRS 534.040 and 534.030 should be amended to make misdemeanor and felony fines discretionary with the sentencing court.
- Change the definition of status offender to "children in need of services" and "families in need of services." The philosophy section of KRS 630 would also need to be amended to emphasize the need for appropriate non-punitive interventions for these youth and their families.

- Recommendation that all penalty provisions be included in chapters with substantive violations and that this proposal be incorporated as an operating principle for penal code reform.
- Amend KRS 533.030(3) relating to restitution to add “counseling costs” and thereby eliminate a current statutory inconsistency.
- Amend KRS 533.010(6)(b) relating to eligibility for home incarceration by adding the language “subject to the provisions of KRS 532.200-532.358” to address a current statutory inconsistency.
- Drug Strategy Committee recommendations to institute a statewide system of intensive supervision and mandatory treatment; amend KRS 218A relating to trafficking in marijuana to reduce the number of ounces required; amend KRS 218A relating to marijuana cultivation to establish a new penalty range; repeal KRS 218A.276(8) relating to setting aside and voiding a conviction for possession of marijuana (in light of existing expungement statutes) or consider adding language that the individual does not have pending charges; draft a state money laundering statute similar to the federal statute; draft enabling legislation to permit the use of electronic pen registers limited to drug investigations and restrict use to pen registers that do not intercept audio transmissions; amend KRS 439 to allow probation/parole and private vendors to assess a substance abuse treatment fee over and above the mandatory supervision fee; mandate use of risk assessments by probation/parole officers and the Parole Board; and amend KRS 439 to require probation/parole to issue a supplemental report to update previous assessment and treatment information upon motions for shock probation to allow the judge to consider issues related to compliance or noncompliance with treatment.

2001 Interim Report

- Add the Executive Director of the Parole Board and a representative of the Department of Mental Health and Mental Retardation Services to the membership of the Kentucky Criminal Justice Council.
- Increased and improved public education about the criminal justice system, particularly at the elementary and secondary education levels.
- Conducting a comprehensive statewide study of capital cases incorporating the range of issues identified by the Capital Litigation Committee.
- Recommendation to reorganize the Kentucky State Corrections Commission to create an infrastructure for the planning, implementation and evaluation of community-based sanctions.
- Funding for Drug Courts through the state general fund.
- Involvement of faith-based and victims’ organizations in recommending policy regarding community-based sanctions and the provision of treatment and other services.
- Streamline and standardize statewide procedures for effective assessment, collection and distribution of restitution.
- Public and system education on the seriousness of juvenile sexual offenses, the dynamics of child sexual abuse, and treatment/intervention strategies. Specialized training for law enforcement and child protective service workers in the identification, investigation, interviewing and coordination of cases involving juvenile sex offenders.
- Resources to develop qualified and trained individuals to conduct juvenile sex offender assessments and provide juvenile sex offender treatment in community and residential settings.
- Establish a certification process for juvenile sex offender assessment and incorporate this into the proposal for a unified state level certification board.

- Amend the penal code or the Juvenile Code to consider the age difference between a victim and perpetrator in determining whether a sexual offense should be a felony when no force is involved. Consider establishing a minimum age under which a juvenile perpetrator cannot be charged with a Class A felony.
- Further study and action to address the existing gap in the system involving juvenile sex offenders who are determined to be incompetent for adjudication purposes, but who present with significant treatment needs.
- Need for improved communication between delinquency, dependency, family and felony courts to prevent contradictory court orders and fragmented responses.
- Consideration of whether juvenile sex offenders who are prosecuted as youthful offenders should be eligible for probation (see KRS 640.040).
- Development of statewide “best practice” models for services to juvenile sex offenders and treatment programs for special populations including mentally ill/emotionally disturbed youth; developmentally disabled youth; youth with culturally specific needs; sexually reactive youth; female juvenile sex offenders; non-admitters; and youth with substance abuse issues.
- Establishment of a comprehensive continuum of services for the victims of juvenile sex offenders and adoption of a victim-centered approach to sex offender supervision and policy development.
- Explore the possibility of providing automated notification information to victims of juvenile sex offenders.
- Recommendation that law enforcement training on how to de-escalate a crisis situation involving an individual with mental illness be incorporated into the existing 640-hour basic training and that KLEC be encouraged to develop annual in-service options on this topic.

APPENDIX D:

KENTUCKY CRIMINAL JUSTICE COUNCIL

Proposed Statement on the Rights of Crime Victims and Related Implications for Council Action

While our criminal justice system must remain steadfast in its adherence to principles of fundamental fairness, it must also be flexible enough to accommodate our growing understanding of what fairness should mean. Inasmuch as the impact of the victimization is a reality of crime, it must also be a reality within the criminal justice system. No fully just system can overlook that fact.

The Motivation of Crime Victims

The needs of crime victims are not homogenous. They differ significantly based on the specific nature of the crime and various other factors. As a result, victims' motivation for participating in the criminal justice system following the crime is as unique as they are. Some victims survive by removing themselves from anything which reminds them of the crime, including the prosecution of the offender. Research shows that particularly those victims who are afraid of repeated victimization at the hands of the person who harmed them may drop charges or otherwise refuse to participate in the criminal action. Regretfully, some victims shun the criminal justice system from a lack of confidence in the system or a perception that their needs will not be addressed.

For those victims who do chose to participate, some cannot feel an end to what they and their families have experienced until they witness the prosecution of the offender. Closure can give victims some sense of restored justice. Other victims aid prosecutors, not for their own benefit, but because they feel compelled to ensure that no other person is later victimized by the offender. This is particularly true where the type of offense being heard by the court is characteristically repetitive in nature, such as rape or child sexual abuse. Finally, some victims want prosecution as their only true means to protect themselves from future harm at the hands of the offender. They participate with a strong reluctance but with an understanding that their physical and emotional security depends upon whether that individual has access to them in the future. This is particularly true in cases of stalking, rape and domestic abuse.

The Rights of Crime Victims

While victims are not parties to a criminal action in the "jurisprudential" sense, victims are, nonetheless, an integral part of the criminal justice process. The rights of crime victims are detailed in the statutorily provided Crime Victim Bill of Rights (KRS 421.500–421.576) and include but may not be limited to the following:

- Right to notice of hearings and other proceedings of the criminal justice system related to their case;
- When the victim is less than sixteen (16) years old and the crime is a sexual offense, right to a speedy trial;
- Right to notification upon the release of a convicted sexual offender;
- Right to reasonable protection from harm by an offender;
- Right to confer with the prosecutor and law enforcement and to be kept informed of all relevant developments in the case;

- Right to have a victim advocate accompany them into court;
- Right to prompt return of property;
- Right to require HIV testing of sexual offender;
- Right to be heard in the criminal justice system at sentencing and before the parole board;
- Right to restitution;
- Right to have the forensic rape examination paid as provided by law;
- Right to be heard at the systemic level by representation on such bodies as the Kentucky Criminal Justice Council.

The Implication of this Policy for the Kentucky Criminal Justice Council

A focus on the prevention of crime can benefit every crime victim and every community.

Offender treatment, if provided by well-trained mental health professionals and supervised by the court, can benefit crime victims by reducing the likelihood that the offender will continue to commit crime.

Alternative sentencing options should take into account the safety of the community and the specific crime victim.

When the Council requests additional resources to support services for offenders, equal weight should be given to the resource needs of crime victims.

As the Council addresses the unique needs of juveniles in the criminal justice system, the additional protections afforded them should not serve as unreasonable barriers to the rights of crime victims.

As the Council creates committees or recommends task forces to study an area of crime, membership should be ensured for a crime victim or representative of a victim advocacy agency.

APPENDIX E:

OFFICE OF THE KENTUCKY CRIMINAL JUSTICE COUNCIL GRANTS MANAGEMENT BRANCH

Summary of Council Priorities for Grant Funding

General Funding Requirements

All applications considered for funding must meet the eligibility requirements, both programmatic and financial, for each federal grant program. These requirements include, but are not limited to, the type of program, the percentage of matching funds required, and the type of match allowed (i.e., cash versus in-kind).

General Policy Priorities

- Emphasis on crime prevention as a preferred policy;
- Emphasis on the rights of crime victims as documented in the Victim Policy Statement approved by the Criminal Justice Council;
- Focus on a balanced and systemic approach to issues and funding that recognizes the interdependent functions of law enforcement, the courts, prosecution, indigent defense, corrections, and crime victim services;
- Focus on balanced allocation of funding to state and local subgrantees with a goal, where possible, of exceeding the minimum local pass-through requirement;
- Focus on sharing of criminal justice information and system integration;
- Focus on cross-system training of justice and related professionals;
- Emphasis on data development, research, and program evaluation through the Statistical Analysis Center (SAC) and the Public University Research Consortium (PURC); and
- Incorporation of specific committee recommendations approved by the KCJC in the yearly Interim Report to the Governor and Kentucky General Assembly.

Specific Funding Priorities

In addition to the above requirements, applications that specifically address the following priorities will be given additional points during the review process.

Geographic

Applications that would provide a service and/or program located in rural Kentucky, with specific emphasis on the Eastern Kentucky area.

Basic or Critical Services

Applications that would address a basic service need or provide a critical service in the grant target area.

Program Priorities

Applications that would provide a service and/or program that directly addresses one or more of the following:

- a. Improved statewide database development, collection and research on violence against women;
- b. Law enforcement training on consent issues related to sexual assault;
- c. Development or expanding the use of technology in providing services to victims of domestic violence and sexual assault; and
- d. Improving statewide data collection and research focused on domestic fatalities.

Target/Special Populations

Applications that would provide a service and/or program that directly addresses one or more of the following:

- a. Elderly victims of crime;
- b. Disabled victims of crime;
- c. Child victims of crime;
- d. Developing or expanding initiatives that focus on victims of sexual assault and domestic violence on college campuses; and
- e. Providing assistance to victims of domestic violence and sexual assault in immigrant populations.

Types of Crime

Applications that would provide a service and/or program that directly addresses one or more of the following:

- a. Terrorism;
- b. Stalking;
- c. Drug-related crime including Oxycontin and methamphetamine; and
- d. Hate crime.

APPENDIX F:

KENTUCKY CRIMINAL JUSTICE COUNCIL CAPITAL LITIGATION COMMITTEE Membership List

The Honorable Rob Wilkey, Chair
22nd House District

The Honorable William Knopf, Vice Chair
4th Appellate District
Kentucky Court of Appeals

The Honorable Russell Baldani
Kentucky Association of Criminal Defense Lawyers

The Honorable Joe Bouvier
Ass't. Fayette Commonwealth's Attorney

The Honorable Susan Stokley Clary
General Counsel
Kentucky Supreme Court

The Honorable Steven Durham
General Counsel
Department of Corrections

Commissioner Ray Franklin
Fraternal Order of Police

The Honorable Dan Goyette
Jefferson County Public Defender

The Honorable Kevin McNally
Attorney at Law

The Honorable Ed Monahan
Deputy Public Advocate
Department of Public Advocacy

The Honorable Gerald Neal
33rd Senatorial District

JoAnn Phillips
Crime Victim

The Honorable David Sexton, Director
Criminal Appellate Division
Attorney General's Office

The Honorable Carol Ullerich
Chief Legal Counsel
Administrative Office of the Courts

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CORRECTIONS/COMMUNITY-BASED SANCTIONS COMMITTEE
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Crime Victim

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Kentucky Association of Criminal Defense Lawyers

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Department of Corrections

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Amy Dougherty
Justice Fellowship

Christie Floyd, Paralegal
Jefferson County Commonwealth's
Attorney's Office

Reverend Richard Gaines
Consolidated Baptist Church

Jailer Gary Gilkison
Kentucky Jailers Association

The Honorable Howard Keith Hall
Pike County Attorney
35th Judicial District

The Honorable Jim Lovell
Attorney at Law

Betsy Fulton Matthews
Department of Correctional & Juvenile Justice Studies
Eastern Kentucky University

The Honorable George Moore
Commonwealth's Attorney
21st Judicial District
Prosecutor's Advisory Council

The Honorable Maria Ransdell
22nd Judicial District

The Honorable Harry Rothgerber
Jefferson County Commonwealth Attorney's Office

Martin Scott, Jr.
Kentucky State Lodge
Fraternal Order of Police

The Honorable Kathy Stein
75th House District

The Honorable Jack Westwood
23rd Senatorial District

**KENTUCKY CRIMINAL JUSTICE COUNCIL
JUVENILE JUSTICE COMMITTEE
Membership List**

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33rd Senatorial District

The Honorable Megan Thornton
Vice Chair
22nd Judicial District

Rashmi Adi Brown
Prevent Child Abuse Kentucky

Andrea Coleman
Partners for Youth

Amber Deitz
Victims' Advocacy Division
Attorney General's Office

The Honorable Rebecca DiLoreto
Post-Trial Division
Department of Public Advocacy
Restorative Justice Representative

The Honorable Michael Foellger
17th Judicial District

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Carter County Attorney
37th Judicial District

Kathy Franks
Fayette County Commonwealth's Attorneys Office

Michelle Garrett
Fayette County Public Schools
Court School Liaison

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Kentucky Department of Education

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44th House District

Commissioner Ralph Kelly
Department of Juvenile Justice

Debra Miller, Executive Director
Kentucky Youth Advocates, Inc.

Katherine Siereveld
Cabinet for Families and Children

Cheryl Roberts
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The Honorable Gail Robinson, Manager
Juvenile Post-Disposition Branch
Department of Public Advocacy

The Honorable Pete Schuler
Chief Juvenile Defender
Jefferson Co. Public Defender's Office

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Angela Wilkins
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The Honorable Kathryn G. Wood
Kentucky Association of Criminal
Defense Lawyers

Robyn Zapp-Basil
Cabinet for Families and Children

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JUVENILE JUSTICE COMMITTEE
Status Offender Work Group
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The Honorable Megan Lake Thornton
22nd Judicial District

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Lt. Brenda Caudill-Barnes
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The Honorable Joan Byer
Jefferson County Family Court

The Honorable George Davis
32nd Judicial District

The Honorable Michael Foellger
17th Judicial District

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Department of Education

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Vicki Reed, Director
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Department of Public Advocacy

The Honorable Pete Schuler
Chief Juvenile Defender
Jefferson County Public
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Natalie Kelly
Department for Mental Health/Mental Retardation

Roger Von Strohe
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Mary Ann Taylor
Family Resource and Youth Service Centers

The Honorable Robin Webb
State Representative

Ruth Webb
Citizen

The Honorable Susan Westrom
22nd House District

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Deb Williamson, Manager
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Robyn Zapp-Basil
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Bill DeNardi
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Department of Juvenile Justice

Chief Rebecca Langston
University of Kentucky Police Department

Edward L. Mercer
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Alcoholic Beverage Control

The Honorable Steve Riggs
State Representative

The Honorable Ken Rylee
Attorney At Law
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Lt. Colonel W. R. Stewart
Kentucky State Police

Martin Scott, Jr.
Kentucky State Lodge
Fraternal Order of Police

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46th Judicial District

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Trial Division
Department of Public Advocacy

The Honorable Gregory F. Van Tatenhove
U.S. Attorney, Eastern District

Sheriff Kathy Witt
Fayette County Sheriff

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KENTUCKY COMMISSION ON HUMAN RIGHTS
Hate Crimes Statistics Work Group
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Stan Beauchamp, Executive Director
Paducah Human Rights Commission

Sandra Noble Canon, Executive Director
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Gail Cook
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he Honorable Jesse Crenshaw
State Representative

Father Pat Delahanty
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Hancy Jones III
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Bernard Standard, Executive Director
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Jeff Vessels, Executive Director
American Civil Liberties Union

Captain Jerry Wells
Section Commander
Bowling Green Police Department

Vickie Wise, Director
Victim's Advocacy Division
Office of the Attorney General

James Zerhusen, Chief
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**KENTUCKY CRIMINAL JUSTICE COUNCIL
PENAL CODE/SENTENCING COMMITTEE
Membership List**

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Governor's Office of Child Abuse and
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Pat Byron
Crime Victim

The Honorable Ray DeBolt
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Amy Dougherty
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The Honorable Dan Goyette
Jefferson County Public Defender

Keith Hardison, Executive Director
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The Honorable William R. Harris
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The Honorable William Knopf
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The Honorable Cicely Lambert, Director
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The Honorable Ernie Lewis
Public Advocate

The Honorable Tom Lockridge
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13th Judicial District

The Honorable Sam Manly
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Chief Ralph Miller
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The Honorable David Sexton, Director
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The Honorable Michael B. Stacy
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Northern Kentucky University

Commissioner Vertner Taylor
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Tommy Turner
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APPENDIX G:

COUNCIL PUBLICATIONS 2001-2002

March 2002	Hate Crime and Hate Incidents in the Commonwealth of Kentucky: A Report of the Hate Crime Statistics Work Group of the Kentucky Criminal Justice Council
March 2002	Resource Guide: Statewide Inventory of Criminal Justice Organizations/ Groups
March 2002	Sourcebook of Criminal Justice Statistics in the Commonwealth (Second Edition)
June 2002	Kentucky's Response to Juvenile Sex Offenders: The Findings and Recommendations of the Juvenile Justice Committee of the Kentucky Criminal Justice Council